



ECONOMIC SECURITY

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
3300 DEFENSE PENTAGON
WASHINGTON, DC 20301-3300

10 AUG 1994



MEMORANDUM FOR THE DIRECTORATE FOR FREEDOM OF INFORMATION
(ATTN: Mr. Talbot)

SUBJECT: Public comments on the Defense Department's Interim and Proposed Rule
published in the *Federal Register*, April 6, 1994

Thank you for agreeing to manage public access to the public comments on the Department of Defense's Interim and Proposed rule, published in the April 6, 1994, edition of the *Federal Register*. This rule, **Revitalizing Base Closure Communities**, has, as you might imagine, generated a good deal of public interest.

We have received several requests from members of the public to view the comments. Attached is a complete set of comments received to date; the public comment period closed on Friday, August 5, 1994.

When it is completed, we will also send a copy of the transcript from a public hearing on the same subject, held on August 5, 1994. We appreciate your willingness to let interested persons read and copy this document as well.

Please direct questions to myself or Mr. Damon Hemmerdinger of the Base Transition Office. We can be reached on x75754/45.

Helen F. Forbeck
Senior Professional Advisor
DoD Base Transition Office

Enclosure

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ECONOMIC SECURITY

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
3300 DEFENSE PENTAGON
WASHINGTON, DC 20301-3300

10 AUG 1994



MEMORANDUM FOR DISTRIBUTION

SUBJECT: Public access to comments on the Interim and Proposed Rule

We have received numerous requests from interested persons to review the comments we received on the Interim and Proposed Rule. Anticipating additional requests, we have arranged with the Directorate for the Freedom of Information, OASD(PA), to put this material in their reading room for public access.

Please ask interested parties to contact the FOIA office at 697-1160. FOIA will arrange for access to the Pentagon. The reading room is located in Room 2C757.

When the transcript from the August 5 public hearing is complete, it will be available to the public in the same reading room.

If you have any questions, my point of contact is Mr. Damon Hemmerdinger, BTO. He can be reached on x75743/45. Thank you.

Helen F. Forbeck
Senior Professional Advisor
DoD Base Transition Office



DISTRIBUTION:

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National Association of Installation Developers

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02 JUN 1994

Jane English
President

April 21, 1994

Dear Friend:

We are pleased to be able to provide the enclosed NAID's initial comments on the Interim DoD Final Rules on "Revitalizing Base Closure Communities and Community Assistance" published in the Federal Register on April 6, 1994. Thank you to everyone that reviewed the rules and contacted us with your comments.

These initial NAID comments are based on community input received through April 19th and have been prepared to encourage further community input into our final NAID comments to the Office of the Secretary of Defense after the four DoD public meetings. (Please fax further member comments to: 703-836-8273).

Sincerely,

Jane English
President



National Association of Installation Developers

Jane English
President

April 21, 1994

Initial NAID Comments

Interim DoD Final Rules on "Revitalizing Base Closure Communities and Community Assistance"

Introduction

The National Association of Installation Developers (NAID) is pleased to provide comments on the Interim DoD Final Rules on "Revitalizing Base Closure Communities and Community Assistance" published in the Federal Register on April 6, 1994. Since President Clinton announced his Five Part Program on July 2, 1993, and the subsequent passage of Title XXIX of the Defense Authorization Act for Fiscal Year 1994, there has been anticipation on the part of the base closure impacted communities that the Federal government would finally marshal its considerable resources to aid the affected communities in the reuse of the property and the creation of replacement jobs. Senior Defense officials have toured the country extolling the virtues of the program and have thereby raised expectations that the much maligned base reuse process would be revamped to remove the bureaucratic impediments that have plagued us in the past.

NAID's General Comments

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Based on community comments NAID has received to date on the Interim Final Rules issued by the Department of Defense in the Federal Register on April 6, 1994, NAID believes that these interim rules offer little incentive or flexibility for joint DoD-community cooperation in the early civilian reuse and job generation at former military bases, as called for in the President's July 2, 1993 statement on "Revitalizing Base Closure Communities."

The interim rules themselves are unnecessarily complex and do not communicate easily to a local mayor or a county commissioner. The rules also reflect limited recognition as to the normal economic development role of state and local government in working with the private sector development community to create real estate value and new jobs in the reuse of property.

Note: These initial NAID comments were based on community input received through April 19th and have been prepared to encourage further community input into our final NAID comments to the Office of the Secretary of Defense after the four DoD public meetings. (Please fax further member comments to: 703-836-8273).

While several of the rules appear well intended, the actual language itself will, in many instances, lead to misunderstanding and conflict between the DoD disposal agents at the working level and the impacted communities. Finally, the interim rules will likely create an unnecessary adversarial climate: (1) in the proposed immediate sales offer for high value property, and (2) in retaining personal property equipment needed for the early civilian reuse of the base property.

The NAID member communities to date have several overall concerns with Interim Final Rules which are summarized as follows:

- **DoD Returns to Priority Property Sales Goal:** Despite the enactment of Section 2903, DoD has returned to a priority high value property sales approach. DoD's purpose is no longer to generate large sales returns; now, DoD presumes that early sales will automatically cause new jobs to be created. NAID has seen no evidence that property sales without a local plan and zoning will prompt new jobs; to the contrary, we believe this priority property sales approach will continue to delay local recovery. DoD will even force property sales when the initial sales efforts fail to generate private sector interest. In fact, DoD's process flow chart suggests that sales even take precedence over public benefit conveyances. DoD would also be able to sell off the more valuable properties (a "substantial part") and leave the balance as unusable property. In summary, DoD's priority sales approach conflicts with the President's July 2nd assurance that local base reuse plans will be the preferred alternative in property disposal decisions. DoD's approach also conflicts with the Secretary of Defense's assurance to several seriously impacted California communities that they would be able to receive property at less than fair market value for economic development purposes.
- **"Fair Market Value:"** There are two different descriptions for fair market value in the Interim Final Rules: (1) a broad definition for "readily marketable" property; (2) and a narrow "proposed reuse" definition in the section on Economic Development Conveyances. Neither definition indicates that the surplus base property is actually being transferred in an "as-is, where-is" condition -- often without local zoning or adequate infrastructure being in place.
- **Economic Development Discount - Value:** The conveyance procedures are based solely on the future "planned reuse" of the base property. The valuation process does not discuss the current condition of the facilities or local zoning -- two of the key elements in real estate appraisals. The DoD definition presumes that the infrastructure to support the future planned use will appear automatically. Under the DoD interim rules, the community's "proposed reuse" by itself will set the fair market value basis for the "explanatory statement" required by Section 2903 for any discount below fair market value. As a result, it may be difficult to document the proposed discount below an artificially inflated value. In effect, the community will be penalized for planning. DoD is actually transferring property in an "as-is, where-is" condition -- not some ideal redeveloped future land use. Current facility conditions (including the needed infrastructure improvements) as well as existing local zoning must in fairness be included in

the DoD definition of "fair market" value along with the proposed reuse.

- **Net Operating Costs:** The interim final rules will hopefully allow the community property resale value to be adjusted to compensate communities for their offsetting capital and operating costs to redevelop the former bases. But, the actual allowable operating costs are undefined in the proposed interim rules and have been left to negotiations with the disposal agents based on Part 31 of the Federal Acquisition Regulations (FARs). Part 31 of the FARs is an inappropriate yardstick that was designed to allocate costs across profit-making activities. Few communities have ready access to or understanding of the FARs and are thereby placed at a large disadvantage in negotiating with the Military Departments. The DoD rules should cite normal allowable community operating and capital costs.
- **Personal Property:** The new interim rules do not present a joint DoD-community cooperative approach to retaining personal property. Control of the personal property process will now be placed in the hands of the base commander and the major command. This will likely result in a repetition of the situations at Fort Ord (where even the church pews and irrigation lines were relocated by the base commander) or at Chanhassen AFB (where all the personal property was removed). The DoD rules will allow any federal office to pick over the equipment without control. The rules should emphasize DoD cooperation with the community in working out an agreeable list of equipment to be retained or removed. Mission-related and military unique equipment should be relocated immediately. Thereafter, the listing of retained equipment worked-out by the base commander and the community should be preserved wherever possible -- including appropriate substitute equipment items. At this point, the removal of other equipment should require approval at the Assistant Secretary level both in the Military Departments and the Federal agencies.
- **Readily Marketable Properties:** The Interim Final Rules provide for a six-month period for advertising the property for sale to the private sector which will duplicate and add major confusion to the community base reuse planning process. The proposed private sector advertising period will also occur at a very confusing time when the McKinney Act, public benefit conveyances, facility condition and environmental issues are still being resolved. In fact, the rules would authorize the Military Departments to impose their reuse and zoning judgments on the property -- much like the ill-fated 1990 Army approach for the 9,000 acres at Fort Meade. NAID believes this DoD-determined early sales approach conflicts directly with the objective in the President's July 2nd policy on using the community's base reuse plan as the basis for DoD's property disposal decisions.
- **Forced Sale of Properties:** In the same section, DoD proposes to sell readily marketable property without local zoning and without provision for future infrastructure. NAID believes such quick sales will yield less than 10-to-15 percent of the likely present value from competitive incremental sales through the communities, supported by local zoning. Several communities have already offered full (100 percent) returns of all net sales values

to DoD. The proposed DoD appeal process should allow for the community to offer alternative development proposals with the preponderance of value (based on local zoning) being returned to DoD.

Specific Comments

The following specific NAID comments are organized in the same order as the text of the Interim Final Rules, as published on April 6, 1994. The comments do not suggest the importance of the individual comment. In some instances, a brief parenthetical notation accompanies the statement to explain the significance of the proposed NAID comment.

Para 90.4 e. and Para. 91.3 - Definition (f). Redevelopment Authority: Add the following two sentences: "Typical redevelopment authorities in the economic development and community development profession include: economic development authorities, airport authorities, housing authorities, state and local port authorities, and publicly-owned non-profit economic development corporations organized under Section 501 (c)3 of the Internal Revenue Code. The Secretary of Defense should base his recognition decision for the development authority organization on the recommended organization (if any) adopted in the approved community base reuse plan."

[This additional identification of the normal types of economic development organizations is intended to address the differing interpretations among the Military Departments. The Navy has already sold the Chase Field NAS family housing to the Beeville-Bee County Economic Development Corporation, a Section 501 (c)3 non-profit publicly-owned corporation. The Army has initially declined to work with a similar non-profit corporation at Pueblo and the Air Force has indicated that it cannot work with a joint Denver-Aurora non-profit corporation to purchase Lowry AFB].

Para. 91.3 - Definition (h). Rural: The definition of rural areas should be refined to include jurisdictions that also include small communities with less than 50,000 persons which do not have strong real estate markets -- irrespective of whether they are located in Metropolitan Statistical Areas.

[Many Metropolitan Statistical Areas are "over-bounded," and sometimes include outlying counties that are largely rural in character and often lack economic recovery opportunities; e.g., the rural Tooele Army Depot is located in the Salt Lake City MSA].

Para. 91.2 - New Definition for "Estimate Fair Market Value": There is a critical need for a common definition for "Fair Market Value" to cover consistently both "ready market" property sales and "economic development conveyance property." The definition for fair market value should include at least:

"Fair Market Value is the most probable price that a property should bring in

its current 'as-is, where-is' condition, based on current local zoning and its planned reuse (adjusted for the offsetting cost of public infrastructure to support the planned reuse) in a competitive and open market under all conditions requisite to a fair sale with the buyer and seller each acting prudently and knowledgeably, assuming the price is not affected by undue stimulus. The effect of the base closure on the market shall be taken into account in estimating fair market value."

Para. 91.7 - Real Property Screening (a) (3): Revise the final sentence to read: "Transfer of real property at closing bases between any Military Department or retention of real property at a closing base by a Military Department must be approved by the Assistant Secretary of Defense for Economic Security, unless the transfer has already been approved by the Secretary of the Military Department concerned prior to April 6, 1994."

[It must be very clear that the retention of small military parcels in the middle of a community reuse plan must always be referred to the ASD (ES) for approval. There are case examples where the retention of DoD enclaves imperils the economic feasibility of the community reuse plan. In other instances (e.g., an Army Reserve request at Williams AFB), military requests have been received after the community reuse plan has been completed. It is important for the Military Departments to recognize that "what is closed is closed," unless a mutually agreeable property solution is worked out with the affected community reuse planning committee].

Para. 91.5 - Responsibilities - Add a new sub-paragraph (c): The Military Departments shall secure the approval of the Assistant Secretary of Defense for Economic Security and the DoD General Counsel for any Military Department legal opinion questioning a decision or jurisdiction by the Base Closure and Realignment Commission.

[This new paragraph is needed to correct an internal Department of the Army effort to question the final decision of the Base Closure & Realignment Commission in four cases through operating-level staff legal opinions; these opinions have frustrated community efforts to secure reuse of the closed property without being official Department of the Army positions].

Para. 91.7 (a) - Property Screening: An additional element in subparagraph (9) should call for the affected community to be advised by the Military Department when the base structures are located on public domain land.

[There are a few cases where DoD facilities were located on public domain lands, which normally revert to the Department of the Interior. In these few instances, it will be important for the community, DoD and Interior to find a workable solution to the public domain issue].

Para. 91.7 (b) - McKinney Act Screening: The Interim Rules are well written and presume that

the Secretary of Defense does not have any discretion to reject McKinney Act proposals that impair the overall property reuse. The NAID members believe that DoD should have discretionary authority and we propose to seek legislative authority on behalf of the Secretary of Defense.

Para. 91.7 (c) (1) - Local Redevelopment Plan: The word "generally" should be dropped and words "wherever possible" should be substituted therein.

[The Military Department disposal agents should not be in the role of selecting what portions of the community base reuse plan they wish to follow. The President's guidance calls for the community base reuse plan to be the preferred alternative in the EIS].

Para. 91.7 9 (d) - Jobs-Centered Property Disposal: NAID members believe this entire section will place DoD and the impacted communities in a direct adversarial position. This section should be rewritten to encourage the Military Departments, in cooperation with the impacted community, to seek an early opportunity to test the market for those few readily marketable properties once: (1) the facility and environmental conditions at the base are known; (2) the community has completed its base reuse plan; (3) the community has identified the likely required public infrastructure for the property; and (4) the local jurisdiction has indicated the likely local land use zoning the property will receive.

The Military Departments should also be authorized to approve joint venture offers from redevelopment authorities where the net present value of the property substantially exceeds its current value in an "as-is, where-is" condition. The redevelopment authority must secure local zoning and provide the necessary supporting infrastructure as well as an assurance that the predominant portion of the net sales proceeds will be remitted to DoD.

[The approach in the previous two paragraphs will preclude the conflicting six-month private sector sales initiative at the very time that the community is attempting to complete its base reuse plan. This approach will also provide the community with an alternative to the "forced-sale" of readily marketable properties without local control].

Any public notice for all sales of high value property under this section should identify the current local zoning for the surplus property and should contain the community's estimate (when provided by the community) of the supporting infrastructure required for normal reuse of the property.

[This is intended as a "Surgeon General's Warning" to any possible uninformed investor].

Finally, the definition of "fair market value" in this section should be consistent with that used in the Economic Development Conveyance section.

NAID believes that the Department of Defense should not attempt itself to reach conclusions as to what properties enjoy a "ready market." DoD has very limited capacities in commercial real estate markets. We recommend that DoD turn to an outside independent group like the Urban Land Institute or the American Society of Real Estate Counselors to provide this independent judgement.

NAID is especially concerned that the guidance in Subparagraph (d) would encourage priority property sales without regard to the community's base reuse plan -- when the Military Department decides the property is "readily marketable," and even after private sector sales initiatives have been unsuccessful. NAID believes that Section (d) is in direct conflict with the President's Five-Point program and that this priority property sales approach will place the Military Departments in a direct adversarial conflict with the impacted communities. NAID recommends that this entire subparagraph be rewritten to emphasize property disposals (including sales supported by local zoning) that are based on the community's approved reuse plan.

Para. 91.7 (e) - Economic Development Conveyances: Subparagraph (4) should be revised to read: "Before making an economic development conveyance of real property, an appraisal or other estimate of the property's current fair market value in an 'as-is, where-is' condition will be made, based on current local zoning and the proposed use of the property, adjusted by the offsetting estimated value of infrastructure improvements to support the proposed reuse."

An additional sentence should be added to subparagraph (d) as follows: "The written explanation should identify any "consideration" provided to the DoD for the property transfer, such as the community assuming normal DoD care and custody costs for the property."

[Section 2903 authorizes "the transfer of property . . . for consideration at or below fair market value of the property transferred or without consideration." DoD has interpreted "fair market value" to mean "planned use." NAID members believe this is not a reasonable interpretation, and that this section should comply with the precise language in Section 2903].

Para. 91.7 (f) - Profit Sharing: Subparagraph (1) should be amended to allow the Secretary of the Military Department to accept local community proposals for a longer payback period to DoD in unusual cases -- not to exceed 20 years.

Subparagraph (c) is unnecessary; the fair market value of the property should be based on its "as-is, where-is" condition at the time of transfer, current local zoning, and the proposed use of the property, adjusted by the offsetting estimated value of infrastructure improvements to support the reuse. Most communities will not have problems sharing the upside net proceeds from the long-term development process, including that value created by local zoning and local development entitlements. Paragraph (c) should be dropped entirely.

The control-oriented DoD approach in the DoD interim rules is especially evident in subparagraph (4) (iii) in particular and this subparagraph should be deleted: i.e., "The deed

provisions will forbid 'straw' transactions (sales or leases to a cooperating party at a nominal or lease price) and other devices designed to circumvent the Government's recovery of its share of the net profits."

[This selection of words will be highly inflammatory to most communities and the two sentences are unnecessary. The regulations in 41 C.F.R. 101-47.4908 already describe the reporting process for communities quite adequately. As an aside, local economic development today is a highly competitive field. Many communities and private developers sometimes subsidize new prospects to attract jobs. DoD should recognize that the community must "carry" the overall project while creating new jobs. It is inappropriate to presume that the community's motive is to circumvent the Government's recovery of its share of the net profits"].

Subparagraph (4) (iv) (A) should be revised to recognize that off-site capital improvements directly related to reuse of the surplus base property are an allowable cost, even though off-site capital costs are not recognized in 41 C.F.R. 101-47.4908.

[Closed DoD bases usually are not individual buildings located in the middle of an already developed urban area. Most DoD facilities lack adequate road access both on-site and off-site necessary to reasonably develop the property and to create new jobs].

Subparagraph (4) (iv) (B) will be very confusing to most communities. The reference (48 CFR part 31) refers to Part 31 of the Federal Acquisition Regulations (FARs) in terms of identifying allowable local redevelopment authority costs. Most communities do not have easy access to the FARs and they will be in a decided disadvantage in negotiating with the Military Departments. The final sentence in this Paragraph should be revised to give examples of specific eligible "... costs of capital and operations for the local redevelopment authority with regard to that property, such as the state-local expenses for financing on-site and off-site infrastructure improvements related to reuse of the site; demolition costs; design and engineering expenses; planning and marketing expenses -- including brokerage fees; federal relocation costs, if any; the costs for upgrading or relocating McKinney Act housing on-site or off-site; direct capital interest or borrowing costs; and local facility care and custody deficits for maintaining the former base."

Subparagraph (4) (v) should be retained. It is important that the DoD reporting requirement, now called for in 41 C.F.R. 101-47.4908 be on the basis of an annual report for the entire property; not a report on each individual sale or lease transaction as now implied in the DoD rules.

[Reporting to DoD on each and every lease or sale will be an unnecessary burden; the GSA reporting process is reasonable and should be retained].

Para. 91.7 (h) - Personal Property: The interim rules leave the base equipment wide-open for wholesale removal -- the very problem that prompted this Pryor Act amendment in the first

instance. The specific elements of concern to NAID are as follows:

- The lack of a strong emphasis on reaching a consensus at the local level between the base commander and the base reuse planning committee on an acceptable listing of personal property needed for early reuse of the property.
- The exclusion in subparagraph (h) (1) of "equipment that the base does not own." [In the case of Navy facilities, this exception includes critical items located at the base but technically "owned" by other "claimant commands," such as airfield radars, ground support equipment and electronic equipment that are essential to the civilian reuse of a military airfield].
- The broad exemption of any community review of equipment shipped under subparagraph (h) (5) even after an agreed upon listing of personal property has been arrived at cooperatively by the base commander and the community.
- The expansion in subparagraph (h) (5) (i) of equipment relocating with a transferred unit to include: "the major command having jurisdiction over the installation (e.g., Forces Command or the Air Force's Air Combat Command), or a major claimant having jurisdiction over the installation (e.g. the Navy's U.S. Atlantic fleet) may also remove property that is needed immediately and is indispensable to an organization under its jurisdiction at another installation for carrying out the organization's primary mission." [In a practical sense, this new exemption means that all personal property can now be easily removed].
- The elimination of low-cost equipment from transfer. In a practical sense, the new guidance means that low-cost equipment items can be removed and placed on shelves at other bases for future use.

NAID members believe that the current interim rules for personal property will place DoD and the communities in an on-going, unnecessary adversarial position.

The emphasis in subparagraph (h) (7) on identifying appropriate substitute equipment items should be moved forward in the process. The revised guidance should stress that retaining equipment in place allows the community to take over early management and operations of the surplus base promptly — with a resulting savings to DoD care and custody costs. Finally, the DoD rules should be revised to require, once the base commander and community have reached agreement on a listing of retained equipment, that those few differences not solved by substitute items should be reviewed at the Assistant Secretary level of the affected Military Department. The community should be allowed to include its comments in the Military Department decision process.

Paragraph 91.7 (i) - Minimum Level of Maintenance and Repair to Support Non-Military Purposes: Subparagraph (2) should be amended to require the Military Departments to maintain

the base closure facilities for up to two-years after the final base closure or 18 months after the property is available for civilian reuse, whichever is the later date, or until the community enters into an interim use lease for the property.

[As currently worded, DoD's maintenance responsibilities could end as early as one week after the completion of the community base reuse plan -- or considerably earlier than the actual closure itself.]

Subparagraph (3) (iii) should be amended by adding: "or necessary and cost-effective for the community to assume early maintenance for a portion of the base."

[It may be necessary to alter a fence line or to modify a water line connection (e.g., Philadelphia Shipyard) for the community to assume early care and custody responsibility with resulting costs savings to DoD].

An additional paragraph should also be added as follows: "(4) The Military Departments are encouraged to arrange for the phased transfer of surplus real property to the community over a one-to-two year period, and to avoid imposing the entire care and custody financial burden on the redevelopment authority until it can become self-sustaining."

[This guidance is needed to avoid the situations at England AFB and Eaker AFB where the Air Force is insisting on the community absorbing the entire base at one time -- after long delays in the Air Force approval of interim use leases for community prospects].

It would be helpful if DoD would also identify what portions of the interim rules will apply to the reuse of property in DoD "retained areas" or facilities to be held by DoD for future mobilization purposes, such as Government-Owned, Contractor Operated facilities.

Conclusion: The overall impression from a broad range of NAID member communities is that the DoD Interim Final Rules are far too complex and complicated to be at all useful to most impacted communities. The DoD interim rules do not provide the market flexibility needed for the communities to attract new firms and private developers to the former bases -- and to reduce DoD's base maintenance and operating costs in the process.

It will be very difficult for the communities affected by the 1988, 1991, and 1993 closures to work within these proposed interim rules. It will be even more difficult for DoD to encourage the new 1995 round of military base closures on the grounds that the property disposal process has been corrected by these interim rules as proposed.

The National Association of Installations Developers believes the DoD interim final rules are well intentioned but should be substantially revised on a priority basis in cooperation with the impacted communities.

Barry W. Poulson
Department of Economics
University of Colorado
Boulder, CO 80309

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02 JUN 1994

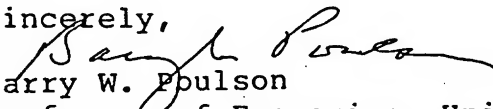
May 9, 1994

Assistant Secretary of Defense (Economic Security)
The Pentagon, Room 3D814
Washington, D.C. 20301-3300

Dear Assistant Secretary of Defense,

I am responding to the DOD Interim Rule for Revitalizing Base Closure Communities, and the proposed rule under the Base Closure Communities Assistance Act published in the News Release dated April 6, 1994. Enclosed are my comments.

Sincerely,



Barry W. Poulson
Professor of Economics, University of Colorado
Senior Fellow, Independence Institute
Adjunct Scholar, Heritage Foundation

2/9/94

HOW NOT TO CLOSE A MILITARY BASE
THE LOWRY ECONOMIC RECOVERY PROJECT

Introduction

The closing of Lowry Air Force Base in September, like other base closings will have a major economic impact on the regional economy. The Department of Defense in recognition of this economic impact has issued new guidelines for the closure of military bases. These new guidelines identify as the major priority in base closures the use of these assets to promote regional economic development and job creation. In this study we show that the existing plan developed by the Lowry Economic Recovery Project (LEAP) fails to achieve this objective. The study proposes an alternative plan to privatize Lowry Air Force Base, consistent with the new guidelines issued by the department of defense.

The New DOD Guidelines For Base Closures

There is little doubt regarding the objective of the new guidelines for base closure issued by the Department of Defense.¹ The assets of these military bases are to be used primarily for economic development and job creation within the impacted communities.

The guidelines make a clear distinction between assets for which a ready market exists and other assets. Where a ready market exists the guidelines call for rapid sale of the assets to promote economic development and job creation. Further the guidelines recognize that in some cases this is best accomplished by the sale of the entire base or a substantial portion of the assets.

"In a few cases an entire base or a substantial portion of it, may have high value and willing buyers. In these cases, sale of the property by bid or public auction may prove to be the most effective way to rapidly create new jobs."

Only when a ready market does not exist are the assets of the base to be made available to a local redevelopment authority without initial cost for economic development. In this case any profits generated by the subsequent sale or lease of the assets are to be shared between the local redevelopment authority and the DOD.

The procedures for disposition of assets in accordance with these guidelines are also clear. The expectation is that the DOD will first ask for expressions of interest from the private sector for developing the entire or a substantial portion of a closing base. Within a short period (6 months) this information must be shared

with the local redevelopment authority to determine that the proposal is consistent with economic development and job creation. The private bidder is expected to work with the local redevelopment authority in planning the disposition of the assets. If the DOD decides to sell the property through auction and private bidding, the local redevelopment authority may challenge this, with the option of negotiating a sale with the DOD.

What is Wrong With the Lowry Economic Recovery Project (LERP)

The fatal flaw in the Lowry Economic Recovery Project (LEAP) is that it fails to achieve the objectives in these new DOD guidelines to use the assets of Lowry Air Force Base to promote economic development and job creation. In the LEAP plan economic development and job creation appear to be an afterthought with the lowest priority in the disposition of Lowry assets. The procedures for disposition of Lowry assets followed by LEAP are the opposite of those envisioned in the new DOD guidelines.

LEAP planners reversed the procedures outlined in the new DOD guidelines by first soliciting interest in Lowry Assets by state and local government agencies. Based upon this interest from the public sector the LEAP plan calls for the allocation of the bulk of Lowry assets to government and nonprofit agencies.

The following table identifies the allocation of Lowry assets in

the LEAP plan.

Allocation of Lowry Assets in the LEAP Plan

Allocation	Acres	% of total Acres
Allocation to Government Agencies		
<u>State and Local Government Agencies</u>	893	48
<u>Federal Government Agencies</u>	245	13
	—	—
subtotal	1138	61
Allocation to Private Development		
<u>Private Housing Development</u>	329	18
<u>Private Business Development</u>	158	8
	—	—
subtotal	487	26
Allocation to Private and Public Development		
<u>Mckinney Act</u>	212	11
<u>Not Designated</u>	29	2
	—	—
subtotal	241	13

In the LEAP plan, of the total 1866 acres almost two thirds will be allocated to government agencies, with the bulk of these assets allocated to state and local government agencies. Fifteen different parcels of land are earmarked for as many different state and local government agencies. Most of the nine parcels of land allocated to the federal government will be retained by the department of defense.

Only a little more than one fourth of the land is designated for private residential and business development. This land appears to be what is left over after government agencies identified their preferred allocation of these assets. Thus far LEAP has done little if anything to solicit interest from the private sector for private development, even for the relatively small amount of land designated for private development.

A significant share of the remaining land is designated for mixed private and public development under the McKinney Act. The McKinney Act requires that the first priority in allocating housing from base closures is to local agencies responsible for housing the homeless. In the LEAP plan four parcels of land are designated for McKinney use, with 85 housing units or about 15%

of total housing units earmarked for the homeless. Since the plan was compiled local agencies representing 198 homeless families and 69 homeless individuals have applied for this housing, with more applications received daily. This suggest that more than double the housing units so designated in the plan will be allocated to the homeless.

The LEAP plan identifies a variety of social benefits that will be achieved through the allocation of Lowry assets envisioned in the plan. However, soliciting government agencies to identify Lowry assets that they can use at no cost treats those assets as a free good. Indeed this procedure makes it impossible to determine the opportunity cost of this allocation of Lowry assets. Without a market valuation of these assets through private auction and bids, it is impossible to assess the values foregone by allocating these assets to government agencies at no cost.

There are a number of reasons to suspect that the allocation of assets envisioned in the LEAP plan will actually lower the social value of the assets. Lowry assets exhibit the classic case of external benefits and costs in which the whole is greater than the sum of the parts. Any private developer knows that the opportunity to invest in and develop golf courses, recreational facilities, open spaces and other amenities as part of a residential project can significantly enhance the value of the

assets. Complementarities also exist between the development of office, research, and commercial uses of the assets and residential development. Examples of such successful development may be found in the Research Triangle region of North Carolina and throughout the country. However, in order to be able to capture these externalities a private developer must be able to invest in the project as a whole. The best way to do this is to transfer property rights in the assets as a whole to a private developer through auction and bidding. That cannot happen under the LEAP plan because of the piecemeal way in which individual parcels are divided up, and the allocation of the bulk of these assets to public rather than private use. We would not expect private developers to have much incentive to invest in the limited number of parcels allocated to private housing, especially if these parcels are further divided up among different individual private developers. The outcome of this allocation is that the value of each individual asset is less than the value of the assets as a whole in an integrated private development project.

One part of the LEAP plan will clearly diminish the value of Lowry Assets, the allocation of a major portion of housing units for the homeless. If we have learned one thing after half a century of public housing, it is that the concentration of housing for the homeless or low income families in a single project not only diminishes the value of the assets, it is likely

to create an instant ghetto.

Another negative externality is found in the plan for disposition of asbestos and hazardous wastes accumulated on the Lowry land. Here the LEAP plan is constrained by DOD rules that require that these problems be addressed by the military before the land is turned over for nonmilitary use. This has been one of the causes for the long and costly delays in base closures in the past. Until these environmental problems are corrected at Lowry they will have negative effects on the value of the assets as a whole. A private investor would have an incentive to address these problems as rapidly as possible to the extent that this was a precondition for developing the assets of the base as a whole.

An Alternative Proposal To Privatize Lowry Air Force Base

Failure to follow the procedures proscribed in the new DOD guidelines is the fatal flaw in the LEAP plan. The LEAP report recognizes that a strong economy has significantly increased the potential for private sale of Lowry assets. The report cites evidence of strong sales of residential property in the Denver market as evidenced by both prices of homes and numbers of transactions. Based upon this evidence we would expect that LEAP planners would follow the guidelines for base closures where a ready market for Lowry assets already exists. That would involve soliciting interest from the private sector with the objective of

selling Lowry assets through auction to the highest bidder.

Yet after several years of planning LEAP planners have yet to solicit interest from the private sector for the disposition of Lowry assets. Even in the absence of such a solicitation it is clear that private sector interest exists in purchasing Lowry. Denver councilman Paul Swalm states that he has assembled a group of private developers willing to make an offer to the air force if such an option is made available to them.²

Opening the sale of Lowry to private bids would establish a market value against which alternative uses of the assets could be measured. If LEAP then wished to challenge the private sale of the assets the burden of proof would be on them to show that alternative uses of the assets could have a higher potential value. The best way for LEAP to demonstrate this would be to offer to purchase the assets at a higher price than that offered by the private sector. The financing of the sale of the assets to LEAP could then be achieved as in any special tax district through the sale of redevelopment bonds. If LEAP was not willing or able to offer more for the property this is prima facie evidence that the highest valued use of the assets is through auction and sale in the private market.

Privatizing Lowry assets through auction and private bidding does not preclude the use of those assets to achieve many of the

social objectives identified in the LEAP plan. As provided for in the new DOD guidelines a private developer would have to work closely with the local authority in planning for development of the assets to meet the objectives of the community. As noted earlier the objectives of the community and the private developer often coincide in that the value of the assets is enhanced through investment in open space, golf courses and recreational facilities, flood control and other amenities.

Investment in the Lowry assets for commercial development does not preclude access to these assets by government agencies identified in the LEAP plan. The expectation is that a private developer would have an incentive to invest in and maintain commercial property so as to extract the highest value use of the assets. Government agencies would then be in the position of purchasing or leasing a wider range of assets for education, training, research, and other public sector uses. It is certainly true that some government agencies would choose not to purchase or lease these assets at market values compared to their use of Lowry assets at no cost. One suspects that the Colorado Historical Society would need to find less expensive storage space than the two acres allocated to them in the LEAP plan. That is precisely the advantage of privatizing Lowry, the assets would flow to their highest values use, whether that is in the private or the public sector. The LEAP plan to allocate these assets as a free good to government agencies will tend to result in

underutilization and inefficiency.

It is also possible to achieve a broader set of social objectives through privatization of Lowry assets. Funds from the sale of Lowry assets could be earmarked to subsidize housing for low income families. Vouchers for the homeless would enable them to obtain housing throughout the city. Not only is this more efficient, it is more equitable because it gives low income families and the homeless a choice of housing that would not be available under the LEAP plan. Experiments within HUD to privatize public sector housing indicate that this can be a successful policy to improve low income neighborhoods. It is ironic that at the same time that HUD is privatizing housing for low income families, the LEAP plan calls for an expansion in public sector housing. In response to reactions from neighbors in the Lowry area city officials and LEAP planners are already attempting to come up with alternative sources of money to buy off the groups representing the homeless to enable them to disperse the homeless elsewhere. Privatization of Lowry would obviate the need to search for such alternative funding.

Conclusion

If privatizing Lowry Air Force Base is superior to the LEAP plan for disposition of these assets why has this alternative not been chosen. The explanation for this government failure lies in the

complex political decision making that now surrounds base closures. The bottom line is that special interests stand to gain from the piecemeal allocation of the bulk of these assets to government agencies. The solicitation of interest from government agencies prior to solicitation of interest from the private sector has led to an extreme form of rent seeking by the special interests and the LEAP planners. The retention of the Defense Finance Accounting Services at Lowry reflects the logrolling that has surrounded base closures within Congress. A good indication of rent seeking at the local level is a bill introduced in the state legislature to require that two buildings at Lowry be used to house 460 low security inmates from the prison system. When assets are supplied as a free goods in the public sector supply creates its own demand, no matter how much waste and inefficiency this creates.

Certainly a major beneficiary of the LEAP plan will be the local bureaucracy responsible for implementing the plan. One of the complaints in the LEAP report is that base closures have involved long and costly delays in base closures. Yet the LEAP planners have not chosen the fastest and most efficient way to transfer these assets, i.e. private auction and sale. Transferring Lowry assets to the LEAP planners will require a substantial bureaucracy to administer the sale and leasing of these assets. It is these costly delays and inefficiencies that the new DOD guidelines for base closures are designed to eliminate.

The issuance of the new DOD guidelines provides the rationale for scrapping the LEAP plan and privatizing Lowry Air Force Base. Privatization will result in rapid and efficient transfer of these assets into the private sector. Privatization will best meet the primary objectives of economic development and job creation in the region.

Appendix

Detailed Allocation of Lowry Assets in the LEAP Plan

Allocation	Use	Lot	Acres
<u>Allocation to State and Local Government Agencies</u>			
State of Colorado Community College Occupational Educational System - education and training center		A	167
Department of Health and HUMAN Services			
Belle Bonfils Memorial Blood Center - education, research, blood product distribution		C	9
City and County of Denver			
Lowry Heritage Museum - museum		E	7
Cities of Denver and Aurora - golf course		Q	360
Denver Parks Department - community park		T	17
Denver Parks Department - community park		U	26
Denver Parks Department - community park		V	26

Cities of Denver and Aurora - regional flood control	Z	53
	AA	148
Cities of Denver and Aurora - golf course	BB	62
Colorado Historical Society - storage	CC	2
Emily Griffith Opportunity School - aircraft maintenance training	DD	8
Colorado Department of Health - laboratory	EE	6
American Red Cross - current operations	HH	1
Denver Parks Department - recreation	II	1
		<hr/>
subtotal		893

Allocation to Federal Government Agencies

Department of Defense

Defense Finance Accounting Services - storage and office	F	10
---	---	----

16

Department of Defense

Defense Finance Accounting Services -

parking lot	G	7
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Department of Defense

Defense Finance Accounting Services - unknown	S	10
---	---	----

Department of Interior - regional park	W	52
--	---	----

	X	73
--	---	----

Department of Defense

Defense Finance Accounting Services -

storage and office	FF	3
--------------------	----	---

Department of Energy - training and office	GG	5
--	----	---

Department of Defense

Defense Finance Accounting Services -

cantonment areas	CA1 & CA2	85
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subtotal		245
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Allocation to the Private Sector

Private Development - housing	H	18
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17

Private Development - housing	L	138
Private Development - housing	M	13
Private Development - housing	N	25
Private Development - housing	O	65
Private Development - housing	P	70
Business and Training Center - business training and housing	D	158
		<hr/>
subtotal		329

Allocation to Private and Public Agencies

Mckinney Act - homeless and private housing	I	36
Mckinney Act - homeless and private housing	J	38
Mckinney Act - homeless and private housing	K	75
Mckinney Act - homeless and private housing community services and education	R	30

Private and Public - recreation

Y 33

subtotal

212Not Designated

B 29

1. 'DOD Issues Interim Rule for Revitalizing Base Closure Communities', News Release, Office of Assistant Secretary of Defense, Washington, D.C. April 6, 1994.

2. Rocky Mountain News, 3/29/94:



RANTOUL

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SOUTH TANNER P.O. BOX 38 RANTOUL, ILLINOIS 61866-2932 Phone (217) 893-1661 Fax (217) 892-5501

May 18, 1994

02 JUN 1994

#1193

Robert E. Bayer
Office of Assistant Secretary of Defense
for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

Dear Mr. Bayer:

I have reviewed the implementing guidance for the President's Five Point Plan and the Prior Legislation. I also attended the seminar in Chicago the first weekend in May, 1994. I am concerned that the implementing guidance fails to represent communities as partners in the recovery process. It was my understanding that the goal of both programs was to include the community reuse authority as a full partner. Unfortunately, the bureaucratic process remains more important than getting the job done. I understand that in a government of laws and regulations we must follow pre-existing guidance in implementing new programs. This, however, should be the exception. The government has nothing to gain by making the process more difficult when recovery of impacted communities is the overriding purpose of the legislation and the President's plan.

I have included some of the areas that concern me and have suggested ways in which changes might better support the communities that have lost major DOD installations.

- ① 1. We have found that transfer of utility systems is critical and should occur early in the process. Utilities are not discussed in the implementing guidance. In dealing with business and industry, clearly one of the most critical issues is utility rates and charges as well as assurances that there is little chance that services might be interrupted. It has been difficult to deal with the service as there are regulations that do not allow the flexibility needed in an economic redevelopment climate. Additionally, when there is a municipal utility system, consideration should be given to simply transfer the system to the community via Public Benefit Transfer. It would be helpful if utilities including electric, gas, water, sewer, and cable TV could be defined as real property for the purpose of your implementing guidance.
2. The National Economic Development Council framework fails to note the desires of the community in relation to the quick sales when a ready market exists. Community desires are embodied in the reuse plan that nominally takes six months to produce. That plan discusses the preferred as well as

alternative reuse options that fit into the community vision of the post military community. Before sales are scheduled or consummated, there must be consultation with the community to determine whether or not the facilities would be needed for FAA airport support property, for DOI recreation property, for DOE education conveyance or for community economic development purposes. Quick sales are good in order to replace lost jobs as quickly as possible, however, community development desires must be considered. There must be a method for determining the best course of action with the Local Redevelopment Authority (LRA) involved and where disputes are settled through a process that includes representatives from the government and the community.

3. Transfers for Economic Development purposes need to be reworked. It appears that the net adjustments are based on the future value of the property and not on the value when transferred. It is unfair for the government to take value from the community generated by community and tenant investment. The adjustment should be at the market value established at the time of transfer. Additionally, it is unclear who maintains the property during development. If the "marketable" property is sold in a "quick Sale" for "Rapid Job Creation" what is the guarantee that the remaining property is absorbable in the marketplace. There is no guarantee. The simple maintenance of the property could bankrupt a small rural community. The "marketable" property could also be transferred to the LRA and the revenues used to maintain the less desirable property through the redevelopment process. In any event, the community plan must be consulted and the LRA input received in the process.
4. Appraisals should be based on as-is, where-is condition in the marketplace. There is no reason to develop a highest and best use scenario in order to do an appraisal. In most every case, extensive modifications must be done for the facility to become anything in the private sector. Government appraisals don't necessarily take that into account.
5. From the personal property session it is evident that the personal property disposal process has not been fixed. It is important that the LRA receive property and equipment to successfully implement reuse. It is apparent that LRA needs have been left out of the process except that the LRA will be provided lists and the opportunity to walk

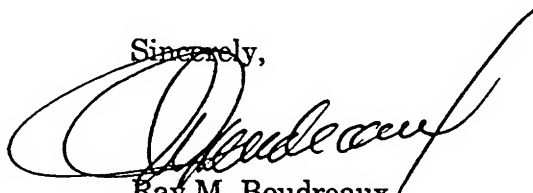
Robert Bayer
May 10, 1994
Page 3

through the property before it leaves. It is appropriate that the services retain military unique items and items that are required to preform the mission. From experience, they have what they need and the abundance of property now available simply duplicates what they already have. The recovering community has needs to and those must have standing in the process. The community must prove its need as the service must prove its need. The process must be expressly spelled out so that both parties are equally represented and that the opportunity to receive property is evident. Currently, the rights of the service are spelled out--spell out the rights of the community to have property that contributes to reuse, equipment that is needed for maintenance of the property, and vehicles that are necessary in getting the job done.

In summary, the effort is good but the interim rules fail to represent the LRA and the community in the overall process. If we are to implement new guidance to document the process, it should highlight the rights of both parties in the closure and redevelopment process. Omitting the LRA and the Community except to say that they will be consulted, does not do the job. Uncertainty of those implementing the guidance makes it difficult for all parties. An approval and appeal process must be documented so that disputes can be promptly settled.

Thank you for this opportunity to comment on the interim rules presented at the seminar. Should you have questions or wish to further discuss my concerns please call me at (217) 893-9955.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Ray M. Boudreaux', written over a horizontal line.

Ray M. Boudreaux
Director

Aviation and Reuse Development

1104
1718 Presque Isle
Marquette, Mi. 49855

May 18, 1994
2/June '94

To: Office of Assistant Secretary of Defense
for Economic Security
Room 3 D 854, The Pentagon
Washington DC 20301

Re: Section 2908 - National Defense Authorization Act, 1994
Rule 32 CFR, Part 91

Dear Asst. Secretary of Defense,

We have studied Rule 32 CFR Part 91 and have drawn the following conclusions and recommendations.

We are opposed to the rule change that allows land and properties (available from base closures) to be transferred to purchasing parties before the military cleans up the contamination caused by use for military purposes.

1. It is the responsibility of the DOD and DOE to keep the commitments made when they began lease agreements, i.e. to return the local and State lands to the environmental condition they were in upon reception. This includes surface and ground water, base land and any surrounding areas used by the military divisions.

2. Anything less than a comprehensive plan for cleanup that is centrally managed will cause extensive delays in reuse. Parcelization will not work, since groundwater contamination flows unrestricted under many parcels. Nor does soil contamination stop at a specific piece of property to be purchased. Timelines for specific uses and compliance requirements because of newly used chemicals may widely vary.

3. The soaring costs and the difficulties of cleanup mandate that all contaminated sites be cleaned up by the highest level of government. Only the Pentagon and Energy Department budgets could afford or manage the contractual arrangements that must be let to remedy the serious problems. The burden should not be laid on any other governing body or industry/business while they are initiating new ventures with designated goals and timelines that will keep whole communities from collapse. The Pentagon has taken advantage of communities and neighborhoods for many decades. They have used their resources, infrastructures, schools and tax base without contributing property and income taxes. With base closures each locale should be recipients of the restored base properties, buildings, and acreage without further costs, health hazards, and damages. The base closures sever thousands who were employed at the military installation who will remain in the community. These employees should be the first employed in the environmental cleanup and monitoring and in the caretaker status.

We hope these comments will be entered into the public analysis and that cleanup will be properly funded, technically sound, and comprehensively carried out. Thank you.

Sincerely,

In Audeth Platte, O.P.
Sr. Carol Gilbert, O.P.

1105
The Law Offices of

GOLDFARB & LIPMAN

One Montgomery Street
Telesis Tower
Twenty-Third Floor
San Francisco
California 94104

02 JUN 1994

May 23, 1994

Office of Assistant Secretary
of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

Dear Sir or Madam:

Enclosed is a recommended change for the Format For
Comments On The Interim Rule Implementing Title XXIX Of The
National Defense Authorization Act For FY94.

Sincerely,

Georgianne Fontana
Georgianne Fontana
Legal Assistant

:gf
Enclosure
cc: Andrew Z. Shagrin

H. Goldfarb

id Kroot

Rosenthal

A. Clay, Jr.

E. Nagle

V. Marshall

Hutchins

ed A. Judd

Franklin

M. Tiedemann

as H. Webber

T. Haygood

ie Jackson McLean

lle Brewer Byrd

née Glover

ew Z. Shagrin

. Lim

M. Robinson

ounsel

/ R. Lipman

Francisco
788-6336
788-0999 FAX

Angeles
627-6336

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: _____
(Activity/Location/Community/Installation/Group)

Page 16126, and throughout
Column 2
Paragraph 90.3(e)

Recommended Changes: Change the defined term "Redevelopment authority" to "Base redevelopment authority." Correspondingly, change the term used throughout the rule "local redevelopment authority" to "base redevelopment authority" or "local base redevelopment authority," and change the term used throughout the rule "redevelopment plan" to "base redevelopment plan."

Why? Under California law, a redevelopment agency is a distinct local government established to eliminate blight within a defined redevelopment project area pursuant to an adopted redevelopment plan. Several other states have similar redevelopment agency frameworks. Unless the terms above are revised, local discussions about base conversion will likely be filled with confusion over which redevelopment agency is at issue: a light-eliminating local government created by state law, or an economic development commission recognized by DOD for Title XXIX purposes. Similarly, there will likely be confusion during local discussions over which redevelopment plan is at issue: the state law redevelopment agency's blight elimination plan, or the federal law economic development commission's job creation plan. The proposed change, while seemingly superficial, will facilitate clarity in local discussions.

Name: Andrew Z. Shagrin
Address: Goldfarb & Lipman
One Montgomery Street
Telesis Tower, 23rd Floor
San Francisco, CA 94104
Phone: (415) 788-6336

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Bay Area Open Space Council

116 New Montgomery, Suite 640, San Francisco, CA 94105
TEL: (415) 543-4291 FAX: (415) 543-1093

#1006
02 JUN 1994

Steering Committee

Jim Angelo
Sonoma Cnty Regional Parks

Bob Berner
Marin Agricultural Land Trust

Fran Briggmann
Marin Cnty Open Space District

Dan Cather
City of Walnut Creek

Stephen Dowling
City of Cupertino

Robert E. Doyle
East Bay Regional Park District

Neal Fishman
Calif Coastal Conservancy

Bud Getty
Calif Dept of Parks and
Recreation

Herbert Grench
Consultant

David Hansen
Sonoma Cnty Agricultural
Preservation & Open Space
District

Neil Havlik
Solano Cnty Farmlands and
Open Space Foundation

Patrick Hayes
City of Fremont

John Hoffnagle
Napa Cnty Land Trust

Jerry Lawrence
City of Palo Alto

Ray Murray
National Park Service

Brian O'Neill
Golden Gate National
Recreation Area

Larry Orman
Greenbelt Alliance

Dan Schuman
Sonoma Cnty Land Trust

Malcolm Smith
Midpeninsula Regional Open
Space District

Nancy Stone
National Park Service

J.P. Tindell
City of San Jose

Staff

John Woodbury
Open Space Council
Coordinator

Staff support provided by
the Greenbelt Alliance

May 23, 1994

Assistant Secretary of Defense
for Economic Security
Room 3D854
The Pentagon
Washington, DC 20301

RE: Comments on Interim Final Rule:
Title XXIX of the National Defense Authorization
Act for Fiscal Year 1994

Dear Mr. Secretary:

I am writing on behalf of the Bay Area Open Space Council, to request important clarifications and technical corrections to the proposed Interim Final Rule. The issue of concern is public benefit conveyances.

Our understanding is that Congress intended that base closures be conducted in accordance with the Federal Property and Administrative Services Act of 1949, where appropriate, and that the new legislation adds "economic development" to the list of public uses which already qualify for no cost, or discounted cost conveyances. This understanding is consistent with the wording of Section 90.4(a)(1), which indicates that the use of existing public benefit conveyances should be considered, where appropriate, before the use of a public benefit conveyance for economic development purposes.

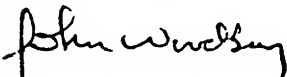
Based on the above understanding, we support the following changes to the Interim Final Rule:

- (1) Section 91.7(d)(3) -- Public benefit conveyances are recognized as a priority in Section 91.7(e)(3) and are acknowledged in (d)(4), but appear to be forgotten in (d)(3). Subsection (ii) should be revised to require DOD to weigh public benefit conveyance proposals and local agency support for such conveyances, before offering the property for private sale.

- ✓ (2) Section 91.7(d)(4) -- Park and recreation property should be included in the list of public benefit conveyances discussed in the fifth sentence.
- ✓ (3) Section 90.4(a)(1)(i) -- Consistent with Section 91.7(e)(3), this section should clearly state that existing public benefit conveyances should be used, where appropriate, before the use of a public benefit conveyance for economic development.
- ✓ (4) Section 91.4 -- Language should be added to clarify that lands designated for public benefit conveyance by the local redevelopment authority should not be sold for public or private development.
- ✓ (5) Section 91.7(d)(2) -- Language should be added to clarify that in appraising the value of the property, the "likely range of uses" to be considered includes potential public benefit conveyances such as park and recreation.
- ✓ (6) Section 91.7(e)(3) -- The word "generally" should be deleted from the first sentence. Economic development conveyances should not take precedence over existing, long-established public benefit conveyances.
- (7) Appendix B -- The procedures and time frames need to be clarified, and internal contradictions corrected.

Thank you for your consideration of these comments. If you have any questions, please do not hesitate to call me at (415) 543-4291 or (510) 654-6591.

Sincerely,


John Woodbury

Telephone: 703-346-6965 Fax: 703-349-2304

#1007
Steve
"U"
2 June '94

OWEN W. BLUDAU
Executive Director

Mr. Robert E. Bayer
May 25, 1994
Page 2

Moreover, we feel the established channel for challenging any decisions which are not in the interests of Fauquier County's economic redevelopment. It stacks the deck against the local authority. inasmuch as the appeals channel is the same channel which made the decisions in the first place. A separate channel is clearly needed to assure an unbiased appeal.

When our attendees to the Outreach Seminar reviewed the substance of the seminar with all 18 members, our redevelopment authority unanimously voted to express concern with and opposition to those changes we feel threaten local control of the economic redevelopment of Vint Hill Farms.

We strongly urge you to listen to the detailed concerns expressed by the localities represented at the Seminar--**especially paying attention to the concerns embodied in the questions asked--not just to the summarized responses noted on the flip charts.**

Economic redevelopment of closed military bases as designed and implemented by the local community, and mitigation of the negative economic impacts on collateral communities, have been the driving force behind the President's plan announced last July.

We feel that parts of the Interim Final Rules are a retreat from the intentions of President Clinton's Five-Part plan and from previous editions of the Rules. They lower the priority status of the impacted community, and they diminish its ability to effectively plan and control its economic redevelopment strategy.

They need to be changed to help, not hinder, communities achieve critical economic goals.

Sincerely,



C. Hunton Tiffany
Chairman
Vint Hill Economic Adjustment Task Force

cc: Senator John W. Warner
Senator Charles S. Robb
Congressman Frank R. Wolf

CITY OF
VICTORVILLE



619-955-5000
FAX 619-245-7243

14343 Civic Drive
Victorville, California 92392-2399

May 12, 1994

Office of the Assistant Secretary of Defense
for Economic Adjustment
Room 3D854, The Pentagon
Washington, DC 20301

2/9/94

Dear Sirs:

We have received copies of the Interim Final Rule which will implement President Clinton's Five Part Program to Revitalize Base Closure Communities. Our specific comments are attached to this letter as a separate document.

We have been anxiously awaiting the changes promised by President Clinton, as we believe that these efforts are vital to the base conversion process. It appears, however, that Round 1 bases may suffer delays and further uncertainties under the Interim Rules as published.

For example, George AFB in Victorville, California, closed in December, 1992. Local reuse plans have been developed and are proceeding toward implementation such as the recently executed lease for the airport which was completed on April 29, 1994. While these reuse efforts have been delayed by litigation, the new McKinney Act screening may allow homeless providers to acquire portions of George AFB which are already planned for in the local redevelopment plan. This is, in essence, a penalty for being one of the first closure communities and does not conform with the stated intent to coordinate closely with local reuse agencies. It also could negate the thousands of dollars and five years which the Victor Valley has invested into the conversion process already.

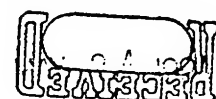
We appreciate the opportunity to provide comments based on our experience as one of the first closure communities. We wholeheartedly support President Clinton's effort to streamline the conversion process and create a basis for solid economic revitalization. Should you have any questions on the attached comments, please contact me at (619) 955-5032 during normal working hours.

Sincerely,

Ken S. Hobbs
Assistant City Manager

KH:\vveda\pryorcom.ltr

cc: Dr. Gary Gray, George AFB Transition Coordinator
Bill Collins, AFBCA George AFB Site Manager



City of Victorville Comments on Interim Rules
Program for Revitalizing Base Closure Communities

1. Interim Rules do not appear to meet the intent of rapid conversion, particularly for Round 1 Closures.
 - a. How can we eliminate George AFB from Mc Kinney Act re-screening due to pending negotiation on parcels B&D, the recently completed lease for parcels A & C, and the potential for uses incompatible with local reuse plans being approved by HHS. There is some reference to a waiver or exemption from the re-screening process, but there is no specific information as to when a waiver would be applicable or how to obtain an exemption for bases well along in the conversion process.
 - b. The interim rules specify working and coordinating with local reuse agency - what agency will be worked with and how will conflicts in reuse proposals be handled?
 - c. How does a California reuse agency with Redevelopment powers become a designated homeless provider approved by HHS? By state law, California Redevelopment Agencies have low and moderate income housing obligations, but there does not appear to be any provisions in the interim rules to coordinate with existing agencies authorized by state laws.
 - d. How does an agency request official "designated" reuse agency status from the Department of Defense? The Victor Valley Economic Development Authority (VVEDA) at George AFB has been recognized by numerous federal and state agencies, yet the Secretary of Defense will not provide official recognition of this status.
 - e. No method is identified to resolve (or proceed in spite of) local conflicts.
 - f. Will there be some recourse procedure should a homeless provider not provide a maintenance level acceptable to the local community agency? A provision for local oversight would ensure that a homeless provider does not lapse in their responsibilities.
 - g. The effect of McKinney Act property transfers is to move homeless populations to more "rural" areas where closure bases are located and typically where jobs are not. Why should one area be taxed with another's social problems, particularly with the potential for disruption to a closure community's economic development opportunities?
 - h. Property screening identifies a screening priority but does not address Public Benefit Transfer applications which are sponsored by a federal agency, i.e., FAA →

airport, Dept of Interior → park facilities. Also, the interim rules present sales as a higher priority than economic development transfers without regard to the plans of the local reuse agencies. The effect of the priority list as presented will be to encourage piecemeal disposition without regard to local planning efforts.

2. Interim rules specify a base will be sold if a "ready market" exists but does not identify a definition of what constitutes a ready market and does not take into account potential conflicts with the local reuse agency plans. The flowchart provided in the Federal Register references a community appeal process. What is not accounted for is the money and time local agencies may have invested in reuse planning by that time, and may encourage the DOD to ignore community plans in favor of a quick dollar.
 - a. What will be the basis of a fair price? An appraisal shared with purchasers which reflects the "reuse" agency Reuse Plan, not "highest & best" use. Will potential negative values due to lack of infrastructure and local code compliance be considered when determining value? There appears to be little understanding of local jurisdictional land use issues with the structure as presented.
3. Will the interim rules encourage contracting with local agency for maintenance and protection, the "caretaker contract"?
 - a. Can a local reuse agency work with directly with DOD Environmental Remediation contractors to direct priorities towards addressing reuse needs?
4. Interim rules provide for early, low cost transfer with a future "profit sharing" clause. This provision removes revenues which could be needed for capital improvement and does not outline any flexibility for handling individual communities needs.
5. When will some information regarding emissions trading procedures be available for review?

vveda\jeannette\dod

1007
2/9/94

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: DA BRAC Office ~~WPA~~
(Activity/Location/Community/Installation/Group)

Page _____

Column _____

Paragraph _____

Recommended Changes:

Appraisal for expressions of interest - An open appraisal for highest best use for Rapid Job Creation is futile if the local reuse committee will not zone accordingly. All appraisals should be based on zoning consistent w/ the reuse plan.

Why:

No developer will acquire the property if he knows appropriate zoning will not accommodate his plans. Cut to the chase. Appraise for community reuse.

Name: LTC BILL ADAMS

Address: DA BRAC 2D657

Phone: 3-7557/8

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

neral

1010
2/9/94

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: _____
(Activity/Location/Community/Installation/Group)

Page _____
Column _____
Paragraph _____

Recommended Changes:

CODIFY REGULATIONS IN TITLE 41 CFR + NOT
TITLE 32 CFR.
PUBLIC CONTRACTS +
PROPERTY
NATIONAL DEFENSE

Why: REGULATIONS DEAL WITH PROPERTY DISPOSAL. OTHER
REGULATIONS - WHICH CAN APPLY, 41 CFR 101-11.7 (PPM12), ARE
IN 41 CFR. ~~RECEIVED~~ FEDERAL REGISTER EVEN CODIFIED
AIR FORCE DISPOSAL REGULATIONS IN 41 CFR 132.
THESE SHOULD BE IN SAME PLACE.

Name: LEN SANDELL
Address: FAA APP-4
800 IND. AVENUE SW
WASHINGTON, DC 20591
Phone: 202-267-8785

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

2/Jan 194

Format For Comments On The Interim RuleImplementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: NAVAL STATION MOBILE
(Activity/Location/Community/Installation/Group)

Page 16133
Column 2-3
Paragraph h (3) & (4)

Recommended Changes:

Add "and/or officer in charge of caretaker staff if
after base closure" after "base commander"

Why: The interim rule does not address the handling of
personal property after base closure and during caretaker
status when there is no base commander but yet the
service still owns property, real & personal.

Name: CAPT W.H. DUNN, USN
Address: NAVAL STATION MOBILE
1800 CAMELLIA LOOP
MOBILE, AL 36615-
Phone: (205) 443-0004

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

~~1122~~
1012

2/9/94

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: NAS MEMPHIS
(Activity/Location/Community/Installation/Group)

Page GENERAL
Column _____
Paragraph _____

Recommended Changes: NONE: RETAIN LEVEL OF SPECIFICITY OF RULES
AS WRITTEN.

Why: - PROMOTES COMMUNITY / DOO PARTNERING AND TQM APPROACH.
- BASE C.O. SHOULD HAVE LATITUDE TO MAKE
JUDGEMENTS; HAS DOO INTEREST INHERENTLY BUT
ON SCENE FOR COMMUNITY CONCERN APPRECIATION.

Name: CAPT. T. L. WILLIS
Address: 7800 3RD AVE
MILLINGTON, TN. 38054
Phone: 901-873-5701

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

#425
1013
29 Jan '94

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: David T. Harris, Realty Specialist, DPW, Fort Ord, CA
(Activity/Location/Community/Installation/Group)

Page 16125

Column middle column

Paragraph 6. "Profit Sharing"

Recommended Changes:

Eliminate the 15-year time limit on the government's participation in profit sharing.

Why: The following sentence limits the government's share not to exceed the estimated fair market value of the property at the time of conveyance. With this limitation, I believe the government (and by inference, the taxpayer) should expect no less.
The redevelopment authority should be more than willing to allow the government to recapture its capital asset. The 15-year limit would encourage "padding" of expenses.
If a similar offer were made to a private investor(s) it would be gratefully accepted as the "deal of the century". Nothing down and 60% of the net profit! You certainly can't find many of those kinds of offerings out in the real world!

Name: David T. Harris

Address: 1716 Eichelberger Ct., Fort Ord, CA 93941

Phone: (408) 883-9024

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

all Prop Screening

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

#1124

1014

2/9/94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: FORT WINGATE DEPOT ACTIVITY
(Activity/Location/Community/Installation/Group)

Page 16128
Column 2
Paragraph 91.7a 1

Recommended Changes:

Need to add language identifying that job creating reuse can be a
"highest and best" use which might keep a service Secretary from granting
a request from another Federal agency for transfer of property.

Why:

Because transfer to an entity such as BLM or BIA might lock up property
that the community could use to create jobs and enhance redevelopment.

Name: FORT WINGATE REDEVELOPMENT AGENCY
Address: GALLUP, N.M.

Phone:

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

~~1017~~
1015**Format For Comments On The Interim Rule**Implementing Title XXIX Of The
National Defense Authorization Act For FY94

02 JUN 1994

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Federal Aviation Administration
(Activity/Location/Community/Installation/Group)

Page _____

Column _____

Paragraph _____

Recommended Changes to: Federal Register Publication of the
Interim Rule & Proposed Rule--implementing the Pryor Legislation.

In the Federal Register preamble to the Revitalization Base
Closure Community and Community Assistance, reader could easily be
lead to believe disposal of the military properties using the
Pryor Legislation is the only lawful manner to dispose of the
surplus properties--when in fact it appears the majority of the
military airfields are being disposed of using the Federal
Surplus Property Acts of 1944, and 1949.

It is therefore suggested that the final rule be expanded to
briefly discuss other legislative or legal procedures for
disposing of these surplus military properties, in addition to
the Pryor legislation rule.

Why: The reader of this rule should be made aware that the Pryor
legislation is not the single legal procedure for disposal of the
military base closure/reuse of properties.

Name: James V. Mottley APP-4
Address: Federal Aviation Administration
800 Independence Avenue S.W.
Washington, DC 20591

Phone:
202-267-8780

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Federal Aviation Administration
(Activity/Location/Community/Installation/Group)

Page _____
Column _____
Paragraph _____

Recommended Changes to: Federal Register Publication of the
Interim Rule & Proposed Rule--implementing the Pryor Legislation.

The legislation and interim final rule is directed at expediting actions necessary to transition property to Federal, State, local or private ownership, including long term leasing--an excellent method to expedite transfer of property. Long term leasing is subject to certain environmental actions or requirements such as the Clean Air Act, and associated air quality implementation plans.

The issue of concern, which might cause delays in executing leases is that of compliance with the Clean Air Act. Section 176 of the Clean Air Act requires the DoD to comply with Act in that the DoD could not (1) engage in, (2) support in any way or provide financial assistance for, (3) license or permit, or (4) approve any action which does not conform to a state implementation plan (SIP). Regulations published in the Federal Register, Volume 58, Number 228, November 30, 1993, (40 CFR Part 93, Subpart B) removed the SIP requirement for DOD to do air quality conformity determinations for base closure actions. The requirement while being removed from the DoD has been shifted to the sponsoring agencies. For a military airfield converting to an airport the FAA is the Federal sponsoring agency, thereby the FAA will need to undertake the air conformity determination for any areas where required, such as Mather AFB.

(SEE CONTINUATION SHEET)

Name: James V. Mottley APP-4
Address: Federal Aviation Administration
800 Independence Avenue S.W.
Washington, DC 20591

Phone: 202-267-8780

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Federal Aviation Administration

James V. Mottley

The Air Force has already undertaken some of the air conformity work for Mather AFB, and it is understood that this work could be completed by contract for about \$60,000.00, apparently shifting the conformity determination requirements to the FAA.

Authorization for FAA to administer the Airport Improvement Program expired at the end of fiscal year 1993, and is currently being considered for renewal in Congress. There may be other areas of the base eligible for long term leases without a Federal sponsoring agency or without resources to undertake the accomplishing the conformity determination, which unless the DOD is willing to be the sponsoring agency cannot be leased--delaying the transfer of the properties to the State, local governments or other entities anticipated to receive the property.

It would appear the DOD should, as part of their base reuse environmental statement (EIS) preparation process, prepare a complete air quality impact analysis, including all relevant information for being able to make a SIP conformity determination. In addition, with active participation of the FAA (as an EIS cooperative agency), the DOD EIS would identify potential or required mitigation measures that could offset SIP violations. The DOD would not make a conformity determination, but would provide in the EIS the necessary information for the FAA (or other Federal agencies) to make a positive SIP conformity determination. This avoids a disconnect, and loss of momentum, between the DOD and FAA actions, and would provide a more timely and effective transfer of Federal properties to receive State, local government and/or other entities.

It is suggested that the DOD discuss this situation with the FAA's Community and Environmental Needs Division, Mr. Ralph Thompson 202-267-8772 and other affected Federal offices. The timing associated with making an air quality determination associated with executing the Mather AFB long term lease may be critical to meeting the July 1 target date.

Why: To provide timely and effective transfer of Federal properties to receiving State, local governments and/or other entities.

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Federal Aviation Administration
(Activity/Location/Community/Installation/Group)

Page _____
Column _____
Paragraph _____

Recommended Changes to: Federal Register Publication of the
Interim Rule & Proposed Rule--implementing the Pryor Legislation.

The following comment is not necessarily a change to the Pryor legislative rule, it is however recommended that the base closure process would be much better coordinated if there was a master project control procedure for reflecting the principal parties, i.e. DOD Service, State and local governments, Environmental Protection Agency, Federal Aviation Administration, and others involved in the individual base activities and a schedule for starting and completing actions necessary to keep all interested parties aware of the project status. Essential actions such as Federal, State & local project screening, funding allocations for planning & project support, planning periods, indicating when action dates or decisions are made impacting project progress, etc.

Why: To ensure that all involved parties are aware of project progress and have lead time for project accomplishment in an efficient and effective manner.

Name: James V. Mottley APP-4
Address: Federal Aviation Administration
800 Independence Avenue S.W.
Washington, DC 20591
Phone: 202-267-8780

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

10/16 02 JUN 1994

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: CITY OF OAKLAND
(Activity/Location/Community/Installation/Group)

Page 16133
Column 2
Paragraph 1

Recommended Changes: PERSONAL PROPERTY

Responsibility For Settling Disagreements
Starts with the Base Commander (DOD)
Then up the chain of command (DOD).
Have GSA who has personal property
experience make the final decision.

Why: DOD - BIAS
NON-DOD - UNBIAS BUT STILL UNDER
FEDERAL CONTROL

Name: FRANK FANELLI
Address: 1330 BROADWAY
OAKLAND, CA.

Phone: (510) 738-3541

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

2 Jan '94
1017

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: _____
(Activity/Location/Community/Installation/Group)

Page _____
Column _____
Paragraph _____

Recommended Changes: Personal property is a big screen. Older regulations from

1) was specific, programs were available to improve and
little waste was incurred. Now - look around at buses -

how much personal property is being in waste - not used - can't
and will not be used by community.

2) Lip service to Indian Tribes/Nations.
Why:

Name: _____
Address: _____

Phone: _____

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

1018
29th 94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: _____
(Activity/Location/Community/Installation/Group)

Page _____
Column _____
Paragraph _____

Recommended Changes:

~~Address conveyance of utilities, exchange
of property for improvements in
infrastructure~~

Why:

Address conveyance of utilities, exchange
of property for improvements in
infrastructure

Name: _____
Address: _____

Phone: _____

(NOTE: LIMIT TO 1 COMMENT PER PAGE)



DEPARTMENT OF DEFENSE
BASE TRANSITION FIELD OFFICE

1019 6 Jun 94

3 June 1994

Mr Robert E. Bayer
Office of the Assistant Secretary of Defense
For Economic Security
Room 3D854
The Pentagon
Washington, D.C. 20301

Dear Bob:

In reviewing the Base Closure Community Assistance Act, Title XXIX, National Defense Authorization Act for 1994, I have the following comments to submit for your review and consideration.

1. Federal Register (F.R.), Pg. 16124. 1. Real Property Screening. Second paragraph refers to "any property excess to Dept of Defense is then made available to other Federal Agencies."

This is an incorrect statement since all Federal Agencies do not have the ability to support local or state requests for public benefit transfers. Example: State of California Transportation Dept requested a public benefit transfer of five acres and a bldg for a 200 employee based Regional Traffic Management Center and Materials Laboratory at Norton AFB. Federal State Highway Administration, a division of the Federal Transportation Agency endorsed this request. The Air Force turned down the request because the Transportation Agency is not designated under current GSA Property Disposal Rules to participate in the review process for public benefit tranfers.

2. F.R. Pg. 16125 6. Profit Sharing. "The government's portion of the receipts from the profit shall not exceed the estimated fair market value (insert here: or negotiated sales price) of the property at the time of conveyance to the local redevelopment authority."

3. F.R. Pg. 16125 8. Personal Property. "Only valid exemptions will be made to this freeze usally involving specific military requirements or property which the base does not own (insert here: including non-appropriated fund assets, 90.4 (h)(5)(VI).)

4. F.R. Pg. 16126 Part 90.4 Policy (a)(1)(V). "Delegating authority to (insert here: local on-site Federal Gov Representative) to approve interim leases (insert here: not to exceed twelve months) and simple land transfers."

PAGE TWO - COMMENTS

5. F.R. Pg. 16128 Part 91, 91.7 (5) "During this period (insert here: Federal) agencies sponsoring public benefit conveyances should. . . ."

6. F.R. Pg. 16129 Part 91, 91.7 (b)(1) "The military Departments will work with communities to identify eligible entities and conduct timely outreach seminars to educate homeless with respect to the land and buildings (insert here: and the estimated costs associated with operating and maintaining those buildings) that will be made available and the process"

(NOTE: In conducting outreach seminars for homeless providers it is critical that all information be provided to potential applicants so that they can make an informed decision on whether or not to apply for a public benefit transfer of surplus federal property.)

7. F.R. Pg. 16132 Part 91, 91.7 (f)(1). "The government's portion of the receipts from the profit shall not exceed the fair market value (insert here: or negotiated sales price) of the property at the time"

8. F.R. Pg. 16132 Part 91, 91.7 (f)(3). "The total recoupment by the government shall not exceed the fair market value (insert here: or the negotiated sales price) of the property"

9. F.R. Pg. 16133 Part 91, 91.7 (g)(4). The Military Departments are encouraged to redelegate leasing authority to the (insert here: local on-site Federal Government Representative) (delete: level that can best) to respond to local redevelopment needs"

10.F.R. Pg. 16136 Appendix B to Part 91.

Reference Number 8 on the chart reflects mission leaving at the time of closure. Realistically, the mission should depart at least six (6) months prior to the actual closure date to allow the base enough time to implement its closure plan. As long as the mission remains active, closure initiatives are difficult to accomplish because emphasis is placed on the mission, not closure.

11. Comment: A critical provision of President Clinton's Five-Part Program includes fast track clean-up. Although the Defense Authorization Act does not specifically mention how environmental fast track is to be accomplished, it should be pointed out that without empowering the local BRAC Environmental Team authority to sign RODs, FOSLs and FOSTs, there will be no fast track clean-up. This issue needs to be reviewed and discussed in terms of establishing policy that can truly assist local BRAC Teams in fast tracking environmental clean-up.

PAGE THREE - COMMENTS

Having been involved in base closure operations (four years) and now as a Transition Coordinator, I believe the above referenced comments to the 1994 National Defense Authorization Act are pertinent to providing clarification on certain sections of the Act, and will help to facilitate the implementation of these provisions.

If you need any additional information or clarification on this submittal, please feel free to give me a call at (909) 382-2007.

Sincerely,

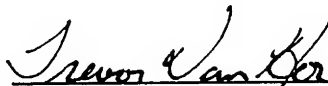


Richard J. Bennecke
DoD/Transition Coordinator
Norton AFB

Comments Endorsed By:



William Bopf
Executive Director, Inland Valley
Development Agency



Trevor VanHorn
Executive Director,
San Bernardino International
Airport Authority



1020 BRRC
3 Jun 94

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF HUMAN RESOURCES AND ADMINISTRATION
FEDERAL REAL PROPERTY ASSISTANCE PROGRAM

THEASTERN ZONE
617) 223-9321

May 24, 1994

Office of the Assistant Secretary of Defense
for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

Dear Sir:

I have served for the last 15 years as director of a public benefit allowance program for the U.S. Department of Education and its predecessor agency, the Department of Health, Education, and Welfare.

After reviewing the interim rules which were published in the Federal Register April 6, 1994 for Revitalizing Base Closure Communities and also attending one of your Regional Outreach Seminars, I wish to offer four comments regarding the manner in which existing public benefit allowance authorities have been addressed under the interim rules:

A. Page 16125, column 1, paragraph number 5 incorrectly states: "In the past, the law permitted the Department of Defense to convey property at a discount of up to 100 percent (free of charge) for specific public purposes such as health, aviation, recreation, and education - but not for economic development" (emphasis supplied).

While the Federal government indeed has such authority, the Department of Defense, in fact, does not. Pursuant to 40 U.S.C. 484(k), that authority is vested only with the respective Secretaries and Administrators of the Federal public benefit allowance sponsoring agencies. I believe that this error should be corrected since, among other things, it implies that the Department of Defense may have authority to reach decisions among competing public benefit allowance proposals which are entirely under the jurisdiction of other Federal sponsoring agencies; such as the United States Department of Education.

B. A serious difficulty has arisen with many military bases which have been announced for closure in the treatment of public benefit allowance screening. Although long-standing provisions of GSA's Federal Property Management Regulations prohibit Federal agencies which sponsor public benefit allowance programs from attempting "to interest a local applicant in a property until it is determined surplus" [see 41 C.F.R. 101-47.203-5(c)], Department of Defense agencies in many cases have not been following the procedures set forth under Federal regulation regarding declarations of excess and surplus; and are thereby depriving potential public benefit allowance applicants of a once in a

lifetime opportunity to improve their services through the acquisition of property and facilities which are critically needed to meet the compelling demands of the 21st century.

The specific procedures established under GSA's regulations are extremely important to the Federal agencies which sponsor public benefit allowance programs since they provide the basic enabling authority to become involved in the early stages of development of community plans for reutilization of military installations when many of the most important decisions are reached. Without such authority, a Federal sponsoring agency cannot screen property nor contact local readjustment committees nor take other action which could be construed as attempting "to interest a local applicant in a property" unless express approval has been provided on a case-by-case basis. With 103 military installations already announced for closure and the associated workload for all agencies involved, it simply is not possible to request approval for initiation of public benefit allowance activities on a case-by-case for every base being closed. The net result is that many local readjustment committees are either not aware of public benefit allowance opportunities or have serious misunderstandings regarding the role played by public benefit allowance transfers during the base closure process.

The interim rules contain specific provisions establishing when McKinney screenings may commence and conclude. Because the interim rules do not specifically explain when other public benefit allowance screenings commence and conclude, unnecessary confusion exists. I recommend that the interim rules be clarified to similarly establish the time schedules for other public benefit allowance program screenings and application submissions; which should occur simultaneously with state and local screening, but sufficiently in advance of the "community statement of interest" and preparation of "local redevelopment plan" stages to be reasonably evaluated and considered by local readjustment committees.

C. The interim rules are conspicuously silent as to the relative priority of existing public benefit allowance transfers in the disposal process. With the exception of the flow chart on Page 16135 which specifies that existing public benefit allowance transfers will follow McKinney but precede development of local redevelopment plans, the interim regulations contain very little guidance on the involvement of public benefit allowance programs in the base closure process.

Public benefit allowance programs have long been afforded priority under existing regulations because Federal laws have considered health, education, park and recreation, aviation and historic resources to be national treasures which should be encouraged and promoted for the benefit of generations to follow. The absence of regulatory guidance has created considerable

- Page Three -

confusion resulting in the active discouragement of public benefit allowance opportunities which will be lost to the public in perpetuity once the base closure process has been completed.

In view of the recurring problems which are being experienced in this area, I recommend that the role or priority of existing public benefit allowance programs be additionally clarified in narrative form and not relegated to a flow chart which may be subject to differing interpretations.

D. Department of Defense representatives expressly advised at your Regional Outreach Seminars that the interim rules were developed to fill a void in existing authorities rather than supplant public benefit authorities which were previously established under the Federal Property and Administrative Services Act of 1949, as amended. Existing public benefit allowance authorities have always had substantial job creation and economic development benefits as intrinsic components of their programs. Although the interim regulations very clearly state on Page 16126, Column 2, Part 90.4(a)(1)(i) that "The use of existing public benefit conveyances should be considered before the use of a public benefit conveyance for economic development", many local readjustment committees have concluded since publication of your interim rules that virtually all reutilization proposals; including those which indisputably fall under the jurisdiction of existing public benefit allowance laws; are essentially job creating opportunities that now fall under the auspices of the new economic development authority.

The proposed regulations should delineate a clearer separation of responsibilities between existing public benefit allowance programs and the new economic development public benefit program since some readjustment committees are literally taking over the applications of public benefit allowance organizations under a reconstituted charter as redevelopment agencies in the interests of job creation and economic developments; and are subordinating existing public benefit allowance interests that the Federal Property and Administrative Services Act intended to encourage, protect and promote.

I would like to thank you for the opportunity to comment on your proposed regulations and hope that you will take my suggestions into consideration when final regulations are published.

Sincerely yours,

Peter A. Wiczorek
Peter A. Wiczorek
Director, Northeastern Zone
Federal Real Property Assistance

HERWOOD BOEHLERT
230 DISTRICT, NEW YORK

COMMITTEES:
SCIENCE, SPACE, AND TECHNOLOGY
RANKING REPUBLICAN, SUBCOMMITTEE ON SCIENCE

PUBLIC WORKS AND TRANSPORTATION
RANKING REPUBLICAN, SUBCOMMITTEE ON WATER
RESOURCES AND ENVIRONMENT
SUBCOMMITTEE ON AVIATION
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT

U.S. DELEGATION, NORTH ATLANTIC ASSEMBLY
CHAIRMAN, NORTHEAST AGRICULTURE CAUCUS
NORTHEAST-MIDWEST CONGRESSIONAL COALITION



Congress of the United States
House of Representatives

Washington, DC 20515-3223

June 16, 1994

WASHINGTON OFFICE:
1127 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3223
(202) 225-3665

CENTRAL OFFICE:
ALEXANDER PIRNIE FEDERAL BUILDING
10 BROAD STREET
UTICA, NY 13501
(315) 793-8146

TOLL FREE: 1-800-235-2525

23 JUN 1994

Mr. Robert E. Bayer
Deputy Asst. Sec. of Defense
For Economic Reinvestment and
Base Realignment and Closure
3300 Defense Pentagon
Washington, DC 20301

Dear Bob:

I offer the following observations on the Interim Department of Defense Final Rule on Revitalizing Base Closure Communities and Community Assistance and urge that they be fully and fairly taken into account in formulating a final rule.

The rule ought to contain a single appraisal definition based on the "as is, where is" condition of the property.

The jobs centered property disposal provisions should be deleted from the final rule because they militate against the primacy of the community reuse organization's role in economic development. The spirit and letter of the President's five point program and of Title 29 are unambiguous in championing community-led economic development by promoting low cost or no cost transfers, as proposed in the rule's economic development conveyance provisions. The proposal protects the federal interest by guaranteeing it a share in any windfall profits that may accrue to the community in the sale or lease of the properties.

The economic development conveyance provisions will make revitalization work. In addition to the above suggestion about the appraisal definition, the rule should guarantee that the community's total costs for the reuse effort will be credited to the community when calculations about profits are made. Also, the net operating costs should be based on the total cumulative costs for all of the property owned by the local reuse organization and not on a parcel by parcel basis as presumed in the interim regulations.

The interim rule allows base property in rural areas to be transferred without consideration, and therefore, not subject to the recoupment provisions set forth in the economic development conveyance provisions. There are many smaller communities, like Rome, New York, which do not have strong real estate markets and which exhibit many of the characteristics of rural communities, but happen to be located in Metropolitan Statistical Areas (MSAs). The no cost transfer rule should be extended to include communities with a population of less than 50,000 which are located within MSAs.

The portion of the rule governing the disposal of personal property presents a number of serious difficulties for community reuse organizations. Since the regulations provide the Department of Defense numerous avenues to retain personal property, there is no need to further complicate the situation by making a distinction between closed and realigned bases. That distinction is already causing problems in other aspects of our readjustment program. I also believe that the community's reuse plans should take precedence in cases where there are competing requests from the community and a federal agency. The rule should clearly spell out that the community can challenge personal property disposal decisions it feels were not made in its best interests. Provision should be made to make sure communities receive a fair hearing.

The personal property disposal rules will place communities and military departments in an on-going, inevitably adversarial relationship, and appropriate changes should be made to mitigate this. I also urge you to delete the provision requiring local reuse organizations to purchase personal property from the military departments, in certain instances.


The final rule must also protect communities by requiring the services to provide minimum levels of maintenance and repair for properties vacated at closure or realignment, especially if those properties have been identified as important components of the reuse plan. Communities must be offered a way to insist, with reasonable assurances their case will be heard, that the Department of Defense will maintain and protect key facilities (base housing, for example) that have been identified as having reuse potential.

The intent of the President's five point program and of Title 29 is clear to me - they are a new way of doing business - a new and important commitment to communities to help and not hinder reuse efforts planned and implemented at the community level. The interim rule struggles to carry out the intent and falls short in a number of critical areas.

I believe that the changes I have outlined will correct the interim rules' failures to meet the spirit of Title 29 and the President's five point program.

With warmest regards,

Sincerely,



Sherwood Boehlert
Member of Congress

SB:dct

**AMERICAN
SOCIETY OF
APPRAISERS**



INTERNATIONAL HEADQUARTERS • P.O. Box 17265, Washington, D.C. 20041 • (703) 478-2228 • Fax (703) 742-6471

June 20, 1994

Office of the Assistant Secretary of Defense
for Economic Security, Room 3D854
The Pentagon
Washington, D.C. 20301

23 JUN 1994

RE: 32 CFR Parts 90 and 91, Revitalizing Base Closure Communities and Community Assistance

The American Society of Appraisers (ASA) wishes to provide the enclosed comments pertaining to reference Interim Final Rule. These comments are responsive to DoD's request for public comment issued on April 6, 1994.

On behalf of our Society, I wish to point out that the members of ASA have significant interest both in the content and the manner in which DoD implements the instructions contained in this rule. ASA, which is the nation's oldest society representing all facets of the appraisal profession, includes over 6,500 members in 82 chapters nationwide and in over 24 other countries. Most of our members have the credentials to appraise properties including vacant and available land, residences and other structures, training, airport and maritime facilities, municipal infrastructure and services, etc., and the economic opportunities they present. Other members of ASA are appraisers of property such as gems and jewelry, fine arts, agricultural chattels, etc.

ASA representatives were present at each of the Public Outreach Seminars conducted by DoD in Washington, D.C., Chicago, San Francisco, and Dallas, to pose questions and gain information about implementation of this rule. While much valuable information was gained, our representatives came away with significant concerns that are expressed in the enclosed comments.

In closing, I wish to express our interest in meeting with DoD officials to further discuss our society's concerns. I look forward to your response.

Sincerely,

Richard A. Kaufman, ASA
International Senior
Vice President

cc: Executive Committee, Discipline Chairmen

**American Society of Appraiser Comments on DoD Interim Final Rule, 32 CFR
Parts 90 and 91, Revitalizing Base Closure Communities and Community Assistance**

- References:
- a. Page 16124, column 1, first paragraph
 - b. Page 16124, column 3, item 4, second and third paragraphs
 - c. Page 16125, column 1, item 5, third sentence.
 - d. Page 16125, column 2, item 6, fourth sentence.
 - e. Page 16130, column 3, § 91.7 Procedures, para (d)(2) & (3).
 - f. Page 16131, column 1, § 91.7 Procedures, para (d)(4).
 - g. Page 16131, column 2, § 91.7 Procedures, para (d)(4)(i).
 - h. Page 16131, column 3, § 91.7 Procedures, para (e)(2).
 - i. Page 16131, column 3, § 91.7 Procedures, para (e)(4).
 - j. Page 16132, column 2, § 91.7 Procedures, para (f)(1).

I. Areas of Concern.

a. Terms and Definitions: While terms and definitions pertaining to the appraisal profession are clearly defined by the Uniform Standards of Professional Appraisal Practice (USPAP) (Copy attached), the DoD Interim Final Rule uses terminology that is neither defined or consistent.

(1) Although eliminated from use by the Office of the Comptroller of the Currency, the term "fair market value" appears numerous times in references a,c,d,e,f,h,i, and j, above.

(2) Reference g, above, uses, but does not define "high value."

(3) Reference i, above, uses, but does not define "other estimate."

b. Appraisal Standards: Although the Uniform Standards of Professional Appraisal Practice (USPAP) sets forth the current standards of the appraisal profession, the DoD Interim Final Rule requires appraisals be conducted in a way that is in conflict with USPAP and will require appraisers to violate USPAP. For example, references b and e, above, would require elimination of the "highest and best use" concept of appraisals.

c. Departmental Stewardship: Reference h, above, authorizes the Secretary of Defense to convey property for consideration "at or below the estimated fair market value, or without consideration." This concept, while useful in certain exceptional cases, may not be viewed as being in the taxpayer's best interests.

2. Discussion:

a. In the modification of this interim final rule, it may be helpful to take instruction from another important piece of legislation which has already addressed appraisal requirements appropriately.

(1) Section 1101 of Title XI, Financial Institutions Reform, Recovery, and Enforcement Act of 1989, requires that federally related real estate appraisals be performed "...in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision."

(2) Section 1102 of Title XI further established an Appraisal Subcommittee and specified certain responsibilities of the Appraisal Subcommittee which include "...shall monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation."

(3) The Appraisal Foundation is a not-for-profit educational foundation established in 1987 to promote uniformity and professionalism in appraising. The Appraisal Standards Board, a subset of the Appraisal Foundation, develops, interprets, and amends the Uniform Standards of Professional Appraisal Practice (USPAP), the generally accepted standards for the appraisal profession. The American Society of Appraisers is a sponsoring organization of the Appraisal Foundation and, in response to a Congressional mandate, helped establish uniform qualifications criteria for professional appraisers and standards for appraisal work, and requires its members to comply with USPAP. Consequently, the problems stated above are of significant concern to appraisers.

b. The need to speed economic recovery of communities where military bases are slated to close is understood and appreciated. Clearly, Title XXIX of the National Defense Authorization Act for Fiscal Year 1994 was written with rapid redevelopment and the creation of new jobs in base closure communities as a primary goal. This also is fully understood and appreciated.

(1) However, the citizens of this nation, whose tax dollars are invested in the real and personal property at these bases, deserve careful stewardship of their investment throughout the disposal process. It is recognized that the provisions of Title XXIX provide the legal authority to carry out the President's plan by, among other things, authorizing conveyances of real and personal property at or below fair market value to local redevelopment authorities. While the need for this authority, in some cases, is understood, it should be used as an exception rather than a rule.

(2) The public's interests will not be served properly if this concept is adopted and applied widely. The Military Departments can avoid significant taxpayer

criticism in this process by exercising appropriate concern for the accurate estimation of true cost and fair market value of property.

3. Recommendations - In view of the above, the following recommendations are provided:

a. Change all terminology associated with valuation in paragraphs a through j, above, to comply with the Uniform Standards of Professional Appraisal Practice (USPAP).

b. Since this rule's purpose is not that of establishing standards for conducting professional appraisals, all language which directs how an appraisal shall be conducted should be deleted. Examples to be deleted include forbidding the use of "replacement cost" and specifying use of "the most likely range of uses consistent with local interests rather than highest and best use." In addition, a new paragraph should be placed at the outset of the Interim Final Rule as follows:

"Appraisals - All property appraisals will be performed in accordance with uniform standards by individuals whose competency has been demonstrated and whose professional conduct is in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), as maintained by the Appraisal Foundation. Further, appraisal requirements will be differentiated according to property type, i.e., real property, personal property, business valuation, machinery and technical specialties, etc., and appraisals will be performed only by appraisers qualified in the appropriate valuation specialty."

c. Replace the term "evaluation of worth," with the term "appraisal."

d. Replace the terms "high value" and "fair market value" with the term "market value."

e. Delete the term "or other estimate." The act of valuing property should be referred to only as an "appraisal."

f. Reference h, above. In implementing instructions provided to each of the military departments, it is recommended that DoD provide direction that the second and third sentences of reference h, above, are "applicable only to exceptional cases on an infrequent basis, with final approval authority remaining with the Secretary of Defense."



PETE WILSON
GOVERNOR

State of California

GOVERNOR'S OFFICE OF PLANNING AND RESEARCH

1400 TENTH STREET
SACRAMENTO 95814

1023



LEE GRISSOM
DIRECTOR

June 15, 1994

23 JUN 1994

Mr. Joshua Gotbaum
Assistant Secretary of Defense
(Economic Security)
The Pentagon, Room 3D814
Washington, D.C. 20301-3300

Dear Mr. Gotbaum:

**RE: Comments on The Interim Rule Implementing Title XXIX of the
National Defense Authorization Act for FY 1994**

Enclosed are detailed comments, in the format requested by the Department of Defense (DoD), on the Interim Rule. These comments represent the combined views of all departments of the executive branch for the State of California. They were compiled from the comments received from all departments attending the May 13 workshop in San Francisco.

We take strong exception to the notion of "test marketing" properties to determine if a "ready market" exists. We believe that this procedure will undermine efforts of communities to develop consensus plans and that, absent zoning and other entitlement, any indications of interest for properties are premature and speculative. Moreover, the rules governing this procedure are not based on any provisions of the Pryor Amendment. We believe, therefore, that DoD has exceeded its authority in promulgating this rule.

Most other provisions of the Interim Rule are reasonable attempts to implement the Pryor Amendment. We have offered a number of suggestions which we believe will further the objectives of DoD and Congress. Two provisions are of particular note. First, there is a need to more clearly define "fair market value" and "net profit" for purposes of negotiated sales and economic benefit conveyances to include a fair share of the costs of basewide infrastructure, planning, property maintenance, and security. Second, the standard for exempting properties from subsequent McKinney Act screening should be broadened.

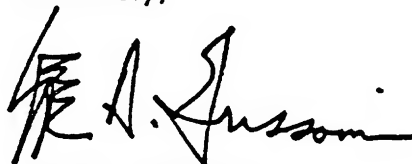
We have suggested only minor technical amendments to 32 CFR Part 91, Paragraph (j) because we believe that implementation may be delayed due to continuing consultations between DoD and EPA and because we believe that no

Mr. Joshua Gotbaum
June 15, 1994
Page Two

rational private party would wish to avail itself of the one-sided provisions of the Interim Rule. We suggest that DoD may wish to reissue the Interim Rule after legal issues relating to transfer of contaminated property are resolved. At such time, we recommend that DoD develop an equitable means of allocating costs and liabilities between the federal government and any persons willing to share the cost of environmental restoration.

We hope that these recommended changes are helpful to you as you consider revisions to the Interim Rule. I look forward to reviewing the Final Rule when it is issued next fall.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee A. Grissom". The signature is stylized with a large, sweeping "L" and "G".

Lee A. Grissom
Director

cc: National Association of Installation Developers
Base closure community reuse authorities

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16127
Column 3
Paragraph 91.3(h)

Recommended Changes:

ADD to end of paragraph: ". . . or a Metropolitan Statistical Area having a population of 250,000 or less in the most recent decennial census."

Why:

Some bases are located in remote areas that have grown to MSA size largely because of the existence of the base. The MSAs nevertheless exhibit the characteristics of a rural area (e.g., limited economy, often based on agriculture or mineral extraction). These very small MSAs should be treated like rural areas for the purposes of Pryor Amendment property transfer consideration.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16128

Column 1

Paragraph 91.4(a)

Recommended Changes:

Eliminate paragraph

Why:

Title XXIX makes no reference to "ready markets" or quick sales of property for public or private development outside the standard federal property disposal process or the new conveyances enacted by the Pryor Amendment.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16128

Column 1

Paragraph 91.4(b)

Recommended Changes:

REVISE TO READ AS FOLLOWS:

"Making property available without initial consideration for economic development ~~where a ready market does not exist for the purpose of economic recovery and job creation.~~"

Why:

Title XXIX makes no reference to "ready markets" or quick sales of property for public or private development outside the standard federal property disposal process or the new conveyances enacted by the Pryor Amendment.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

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Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16128

Column 2 and 3

Paragraph 91.7(a)(4) and (7)

Recommended Changes:

CHANGE paragraphs to read as follows:

"(4) . . . (i) By ~~June 1~~ September 1, 1994 for 1988, 1991, and 1993 closures and realignments unless . . ."

"(7) . . . All requests must be made in writing and made before ~~May 1~~ August 1, 1994 for 1988, 1991 and 1993 closures and realignments and . . ."

Why:

For 1988, 1991, and 1993 base closures and realignments, a special extension should be permitted to the written request to delay declaration of surplus property to August 1, 1994. The regulations were issued and workshops on the regulations were held later than anticipated. Many communities did not understand the significance of the surplus declaration date in time to transmit requests for delay by June 1, 1994. A special exception should be granted to permit consideration of this option by all base redevelopment authorities.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16130
Column 1
Paragraph 91.7(b)(11)

Recommended Changes:

CHANGE the paragraph as follows:

"If the local redevelopment authority does not express in writing its interest in a specific property incorporating the property into its reuse plan . . ."

Why:

Previous references (paragraphs 7 and 9) state that the redevelopment authority needs only to express interest in incorporating the property into its reuse plan to exempt it from further McKinney Act screening. This paragraph implies a much higher standard – characterization of specific properties. It might be concluded that this would require itemization of building numbers or descriptions of precise properties and uses. A more general description of areas to be excluded from McKinney Act review because of incompatibility of planned uses with homeless assistance should be the standard for exemption from further screening.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16130-16131
Column 2 (16130) - 2 (16131)
Paragraph 91.7(d) (entire section)

Recommended Changes:

Delete this entire section.

Why:

The procedure outlined in this section does not respond to any provisions of the Pryor Amendment and is contrary to the President's Five-Point Plan, which emphasizes low cost and no cost transfers of property to community reuse organizations for economic development purposes. The Five Point Plan repeatedly affirms the paramount position of the community development plan for reuse of base facilities. This section could place the community development plan at odds with disposal actions by the Department of Defense. It prescribes a process which operates in advance of and outside the community reuse process. DOD should require any expressions of interest in base property to be made to the local reuse planning authority.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16132
Column 1
Paragraph 91.7(e)(4)

Recommended Changes:

ADD the following after the first sentence:

"... assumptions, guidelines and on instructions given to the appraiser, but shall be fully responsible for completion of the appraisal. In the event that the local redevelopment authority has obtained an appraisal that differs from that obtained by the military department by the greater of 25% or \$100,000, the local redevelopment authority may request that a third independent appraiser be jointly selected and retained, in which event the appraisal of the third appraiser shall be deemed the fair market value. Costs of this third appraisal shall be shared equally by the parties. . . ."

Why:

The appraisal process for determining fair market value for negotiated public agency sales and economic benefit conveyances should include a mechanism for resolving differences between appraisals. The procedures recommended above are commonly used in private sector real estate transactions.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16131
Column 3
Paragraph 91.7(e)(4)

Recommended Changes:

The term "fair market value" is used, even though it has not been fully defined previously. "Fair market value," for purposes of this rule, should be defined in the definitions section and should refer to the estimated NET market value of the property after taking into account the proposed reuse and the fair share of all infrastructure, utility system, and other essential upgrades to the property, including abatement of asbestos, lead paint, and other hazards. It should also recognize the devaluation to the property from the stigma and potential ongoing liability from the presence of hazardous substances on the property.

Why:

Failure to recognize these conditions of the property, which may be ignored in a standard appraisal, establishes an artificially high baseline for future negotiations.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16130
Column 2
Paragraph 91.7(c)(1)

Recommended Changes:

CHANGE the paragraph to read as follows:

"... This plan should embrace ~~the range of~~ feasible reuse options that will result in rapid job creation. . ."

Why:

The purpose of the reuse plan is to identify the best possible base reuses that are acceptable to the community. Presenting a range of feasible options is the responsibility of the EIS, not the community plan. For example, Subparagraphs (2)(i) and (2)(ii) below, consistent with this interpretation, require the local plan to include only the federal and public benefit conveyance transfers recommended by the local redevelopment authority and would not require the plan to include transfers that are opposed by the community. Requiring the plan to include a range of feasible uses is not consistent with this end.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16132
Column 2
Paragraph 91.7(e)(7)

Recommended Changes:

DELETE this paragraph.

Why:

Although the provisions of this section may not be appropriate for some 1988 and 1991 closures, they may be applicable in other cases. The implication of the paragraph is to disadvantage 1988 and 1991 closure communities in the use of this section, irrespective of specific circumstances. If 1988 or 1991 closure community reuse authorities wish to avail themselves of economic development conveyance opportunities, they should be entitled to make their cases under the same conditions as more recent closure communities.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16132
Column 2
Paragraph 91.7(f)(2)

Recommended Changes:

CHANGE as follows (middle of paragraph):

". . . In the absence of a determination by the Secretary of the Military Department concerned that a different division of the net profits is appropriate because of ~~special circumstances~~ negotiations between the Department of Defense and the local redevelopment authority, the net profits shall be shared on the basis of 60 percent to the local redevelopment authority and 40 percent to the Department of Defense. . ."

Why:

The community should clearly have an ability to negotiate the split of profits, rather than a regulated split becoming a defacto standard. Nevertheless, the split indicated in the regulations may well be considered acceptable by many or most redevelopment authorities.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16132
Column 3
Paragraph 91.7(f)(4)(iii)

Recommended Changes:

ADD the following at the end of the first sentence (middle of paragraph):

"... designed to circumvent the Government's recovery of its share of the net profits, unless such transactions are explained as to their purpose in furtherance of the community reuse plan and the profit sharing provisions are passed on to the successor to ownership. . . ."

Why:

The community's reuse plans may envision ownership of an economic development parcel by a public agency or private entity other than the local base redevelopment authority. Such transfer should be permitted with or without compensation, so long as the profit sharing provisions are passed on to the new owner.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16132
Column 3
Paragraph 91.7(f)(4)(iv)

Recommended Changes:

ADD the following paragraph following paragraph (B):

(C) A prorata share of the cost of basewide planning, maintenance, security, infrastructure repair, renovation, or construction. Infrastructure costs may include, but are not limited to: roads, water and sewer lines, storm drainage systems, utility systems, lighting, and habitat restoration.

Why:

The regulations referenced in (A) and (B) are not directly applicable to many of the types of costs that should be considered in valuing the "net profit" from base property sales. Military bases typically require considerable infrastructure renovation to become viable as urban properties. Infrastructure costs may be incurred throughout the base and even outside the base, but the benefits accrue to all properties. In addition, considerable planning, security, and maintenance costs may be incurred to make the property salable. All property sale proceeds should, therefore, contribute to covering these costs, and the "profit" from the sales should be adjusted accordingly.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16133
Column 1
Paragraph 91.7(f)(6)

Recommended Changes:

DELETE this paragraph.

Why:

See Comment #10.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16133

Column 2-3

Paragraph 91.7(h)(3)

Recommended Changes:

CHANGE as follows (middle of paragraph):

"... When the inventory is completed, base personnel shall offer a "walkthrough" with representatives of the local redevelopment authority so that they can see the type and condition of the property available for reuse. Based on- Following these consultations and the "walkthrough" inspection, the base commander is responsible for determining- local redevelopment authority shall enumerate the items or category of items potentially enhancing the reuse of the real property and needed to support the redevelopment plan. The base commander may approve transfer of such items or recommend disapproval, based upon a finding that the item is not needed by the community for specified reasons. When the inventory is completed, base personnel shall offer a "walkthrough" with representatives of the local redevelopment authority so that they can see the type and condition of the property available for reuse...."

Why:

The walkthrough inspection of property should be conducted prior to any determination of potential community needs. Determination of real or personal property that is needed to support the redevelopment plan is the responsibility of the local redevelopment authority, not the military. The role of the base commander and other military personnel is to review the justification for any property transfer requests and make an appealable decision which balances the community need and the interests of the military.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16158

Column 1

Paragraph 91.7(j)(3)(F)

Recommended Changes:

ADD the following at the end of the paragraph:

" . . . and the remedy has been demonstrated to the Military Department concerned, ~~and EPA,~~
and the appropriate State official to be operating properly and successfully. . ."

Why:

This provides opportunity for state environmental officials to have input into the remediation decision and provide regulatory input for sites which are not listed on the NPL.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16158

Column 1

Paragraph 91.7(j)(3)(F)(iv)

Recommended Changes:

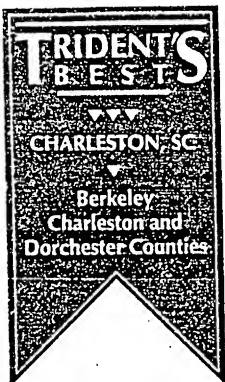
The term "fair market value" must be defined in the definitions section.

Why:

This term must be defined to ensure the same method and/or procedure is used on each property to avoid any failure to treat each purchase uniformly. See comment number 8 for additional observations on defining the term and needed inclusiveness of costs.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170



June 17, 1994

1024
23 June

Mr. Joshua Gotbaum
Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

Dear Mr. Gotbaum:

Attached you will find Trident's BEST Committee's comments concerning your *Interim Final Rule for Implementing Title XXIX of the National Defense Authorization Act for FY94*.

The essential feature of President Clinton's Five-Part Community Revitalization Program was its emphasis on job creation. Likewise, Congress, in passing Senator Pryor's amendment, gave high priority to local communities in disposition of real and personal property at closing military installations. We believe that incorporation of our comments would bring your Final Rule closer to the original intent of both the President and Congress. Specifically, the sections on Jobs-Centered Property Disposal and Transfer of Personal Property must be changed. These two sections, as currently written, are impediments to local economic development and job creation efforts. We look forward to your help in bringing about these necessary changes.

Should you or your staff have any questions concerning these comments, please contact Ms. Madeleine McGee (BEST Chief Operating Officer) or myself at telephone number (803) 724-0670.

Sincerely,

R. Keith Summey
Chairman and Chief Executive Officer

cc: Deputy ASD Bayer (Economic Reinvestment and Base
Realignment and Closure)
Deputy ASN Cassidy (Conversion and Redevelopment)
Mr. Paul Dempsey (Director, Office of Economic Adjustment)
Ms. Jane English (President, NAID)
Mr. David Lane (Director to the National Economic Council)
The Honorable Joseph P. Riley, Jr. (Mayor of Charleston)

122 King Street
Suite 201
Charleston, SC 29401
(803) 724-0670
Fax (803) 724-0674

Trident's BEST Committee Comment Summary

<u>Nr.</u>	<u>Issue</u>	<u>Page/Col Reference</u>	<u>Paragraph Reference</u>
1.	Consultation Definition	16127 3	91.3(c)
2.	Fair Market Value Definition	16127 3	91.3(f)
3.	Real Property Screening	16128 3	91.7(a)(5)
4.	McKinney Act Screening	16129 1	91.7(b)
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Format For Comments On The Interim Rule
Implementing Title XXIX Of The
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Forward comments to:

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Washington, DC 20301-3300

From: Trident's B.E.S.T. Committee, Charleston, SC
(Activity/Location/Community/Installation/Group)

Page 16127 Consultation Definition
Column 3
Paragraph 91.3 (c)

Recommended Changes:

Definition of consultation should be changed to the following:

Fully explaining and discussing an issue and carefully
considering objections, modifications and alternatives to ensure
that a proposed action is compatible with the local reuse plan.

Note: **Bold text** indicates the proposed change.

Any subsequent references to consultation should refer back to
this revised definition.

Why:

To ensure that consultation is legitimate and not just a token
effort. This proposed definition would make redevelopment a true
partnership between the Military Department and the community.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

Phone: (803) 724-0670 Fax: (803) 724-0674

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Page 16127 Fair Market Value Definition
Column 3
Paragraph 91.3 (f)

Recommended Changes:

Insert a new definition as paragraph 91.3(f) and renumber the subsequent definitions accordingly. The proposed new definition is as follows.

(f) *Fair Market Value*. An estimated value of the property, done on an "as is" basis reflecting current use, condition and zoning. The estimate should be developed by an appraisal or similar method generally accepted by the commercial real estate industry.

Any subsequent references to fair market value being based on the "proposed reuse of the property" should be deleted.

Why:

Communities will have to invest heavily in infrastructure improvements before the property is suitable for its proposed use. The current definition of fair market value would actually penalize communities for making these infrastructure improvements.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

Phone: (803) 724-0670 Fax: (803) 724-0674

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Page 16128
Column 3
Paragraph 91.7(a)(5)

Real Property Screening

Recommended Changes:

The section on transfer of property to other Federal Agencies should be changed to give additional weight to the community's reuse plan. The proposed rewording is as follows:

Decisions on the transfer of property to other Federal Agencies shall be made by the Military Department concerned **when such a transfer is supported by the local reuse plan.** If a proposed transfer conflicts with the local reuse plan, the Secretary of Defense will make the final transfer decision.

Note: **Bold text** indicates the proposed change.

Why:

As currently written, this section only provides for consultation with the local redevelopment authority. After consultation, the Military Department could still transfer property to Federal Agencies for uses that were incompatible with the reuse plan.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

Phone: (803) 724-0670 Fax: (803) 724-0674

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Page 16129 McKinney Act Screening
Column 1
Paragraph 91.7 (b)

Recommended Changes:

Add a section that authorizes DoD, HHS and HUD to "balance" McKinney Act requests with job-creation uses proposed in the community's reuse plan.

Why:

The current section does not give DoD any authority to balance McKinney Act requests with job creation uses proposed in the community's reuse plan. DoD needs the flexibility to design systems that accommodate both McKinney Act agencies and the need of the community to create new jobs. One example of this flexibility might be conveying property to the Redevelopment Authority which in turn would lease facilities to McKinney Act agencies. This would ensure compatibility with the community's reuse plan and would permit future relocation of McKinney Act agencies should later phases of development necessitate such a move.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

Phone: (803) 724-0670 Fax: (803) 724-0674

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Page 16130 Jobs-Centered Property Disposal
Column 3
Paragraph 91.7(d)(1)-(7)

Recommended Changes:

Delete the entire section on Jobs-Centered Property Disposal.

Why:

There is an obvious need to identify the fair market value of, and demand for the property. However, the onus should be placed on the community, through their reuse plan, to determine property values and solicit expressions of interest. Any objective planning process would include such research anyway. If the Federal Government undertakes these efforts, additional staff and funding will most likely be needed.

Redevelopment must proceed as quickly as possible to prevent unnecessary job loss. Local redevelopment authorities could develop the property faster than the proposed process which adds a minimum nine month delay for expressions of interest, analysis and comment. This built in delay is totally unacceptable for communities that will experience immense and immediate job loss as a result of base closure.

Additionally, for large multiple use properties, comprehensive development is necessary prior to disposal of individual parcels. Jobs-Centered Property Disposal actually encourages the sale of individual parcels to the detriment of redeveloping the entire base.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

Phone: (803) 724-0670 Fax: (803) 724-0674

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Page 16130/16131 Jobs-Centered Property Disposal
Column 2
Paragraph 91.7(d)(1) & (7)

Recommended Changes:

If the entire section concerning Jobs-Centered Property Disposal is not eliminated, the following changes would be recommended.

Delete the references to 1988 and 1991 closures and allow any base that is "so far along in the property disposal process" to qualify for a waiver from Jobs-Centered Property Disposal. "So far along" should be defined as having submitted a reuse plan, substantially completed the McKinney Act screening process, and initiated discussions with private industry. Communities should be given the option to submit requests and provide justification for such a waiver. The revised section should also indicate time limits for the Navy and DoD to respond to community waiver requests.

Why:

Some 1993 communities are further along in the property disposal process than many 1988 and 1991 base closures. The minimum nine month delay inherent in Jobs-Centered Property Disposal (for expressions of interest, analysis and redevelopment authority comment) could seriously impact a 1993 community's ability to implement their reuse plan. President Clinton's Five Part Plan encourages rapid redevelopment and creation of new jobs. Under Jobs-Centered Property Disposal, "Model" 1993 communities would actually be penalized for having expedited redevelopment.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

Phone: (803) 724-0670 Fax: (803) 724-0674

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Page 16132 Profit Sharing
Column 2
Paragraph 91.7 (f)

Recommended Changes:

Procedure for calculating net profit, for sharing of sale and lease proceeds, should be clearly defined in this section. GSA and Federal Acquisition Regulations should not be used. Specifically, this section should address what capital improvement, operating and financing costs should be deducted. These definitions and procedures should be clearly delineated. The distribution percentage and the period of time over which proceeds will be shared should be negotiated with communities.

Why:

Communities do not have ready access to GSA or Federal Acquisition Regulations. Additionally, Federal Acquisition Regulations do not provide a reasonable standard to identify allowable capital and operating/planning costs that will be incurred by the communities to redevelop properties. Finally, certain properties will take longer to redevelop yet returns may be generated in future years. These future returns should be shared with the federal government if it has been a partner in the redevelopment effort.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

Phone: (803) 724-0670 Fax: (803) 724-0674

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Page 16133 Leasing of Real Property
Column 1
Paragraph 91.7 (g)

Recommended Changes:

This section should add language specifically addressing the leasing of real property to the local redevelopment authority which could then sublet to private businesses that are compatible with the community reuse plan.

Why:

As this section is written, the Military Departments could lease real property to businesses that do not complement the base reuse plan.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

Phone: (803) 724-0670 Fax: (803) 724-0674

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Page 16133 Finding of Suitability to Lease
Column 1
Paragraph 91.7 (g) (3)

Recommended Changes:

This section should contain a requirement that the Military Department complete the Finding of Suitability to Lease (FOSL) in an expeditious manner. A maximum of six weeks after receipt of a request from the local Redevelopment Authority would seem reasonable.

Why:

Leasing of property is critical to rapid job creation and retention. If the FOSL process is not expedited, base workers could be laid off needlessly.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

Phone: (803) 724-0670 Fax: (803) 724-0674

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Page 16133 Leasing of Real Property
Column 1
Paragraph 91.7 (g) (4)

Recommended Changes:

This section should address what recourse the redevelopment authority has should it disagree with a lease proposed by a Military Department.

Why:

As this section is currently written, there is no recourse specified should a Military Department propose a lease that is incompatible with the reuse plan.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

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Page 16133 Personal Property Inventory
Column 2
Paragraph 91.7 (h) (2)

Recommended Changes:

After the first sentence, the following should be inserted.

For multi-tenant bases, the individual inventories of each activity should be consolidated into a single database.

Since this consolidation could take some time, the inventory completion date of June 1, 1994 should be changed to August 1, 1994.

Why:

On large multi-tenant bases, there may be dozens of individual activities submitting inventories. Each activity could use a different method for recording the results of their inventory. This would make it very difficult for the Redevelopment Authority to review the total inventory and decide what property has reuse potential.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

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Page 16133 Personal Property
Column 3
Paragraph 91.7(h)(5)(i)

Recommended Changes:

Delete everything after the first two sentences. This would eliminate the exception which allows major commands/claimants to remove property that is "needed immediately and is indispensable".

Why:

Reuse of personal property, particularly industrial equipment, is critical to the community's ability to create new jobs. As this exception is currently written, any and all personal property could be removed from the base.

This exception to transfer personal property does not appear in the Pryor Amendment and it conflicts with the President's Five Part Plan. Additionally, it is impossible for a community to independently determine what property meets the criteria of "needed immediately and is indispensable". Finally, this exception will needlessly foster an adversarial relationship between the community and the local base commander.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

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Page 16134 Personal Property Substitution
Column 2
Paragraph 91.7(h)(7)

Recommended Changes:

The fourth sentence should be changed as follows.

In this context, "similar" means the original and proposed substitute item are designed and constructed for the same specific purpose **and are of similar age, quality and usability.**

Note: **Bold text** indicates the proposed change.

The following sentence should be added to the end of this section.

All costs associated with a proposed substitution will be borne by the Military Department.

Why:

As the rule is currently written, an older, non-functioning item with no reuse potential could be substituted. Also, the rule does not address the costs associated with substitution.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

Phone: (803) 724-0670 Fax: (803) 724-0674

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Page 16134 Personal Property
Column 2
Paragraph 91.7 (h) (8)

Recommended Changes:

In this section, property that is not needed by a major command, a Federal Agency, or the Redevelopment Authority is transferred to the Defense Reutilization and Marketing Office. Before transfer to DRMO, local governmental agencies (other than the Redevelopment Authority) and community service groups should be permitted to screen this excess property.

Why:

The primary goal of the Redevelopment Authority is reuse of base facilities to create jobs. However, the effects of base closure are felt throughout the community. As a result of closure, local government agencies lose tax revenues and community service groups experience a decline in donations. This is especially troubling since demand for services from these agencies increases after a base closure. This type of assistance will cost the Federal Government little and do so much to increase goodwill within the community.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

Phone: (803) 724-0670 Fax: (803) 724-0674

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Page 16134 Minimum Level of Maintenance
Column 2
Paragraph 91.7(i)

Recommended Changes:

Minimum level of maintenance should be better defined than simply "the minimum levels required to support use of such facilities or equipment for nonmilitary purposes". Specifics such as the physical security of buildings and the lay up of industrial equipment should also be addressed.

Why:

If buildings are not adequately protected, the personal property contained within could be stolen. If heavy industrial equipment is not properly preserved, its reuse potential could be lost.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

Phone: (803) 724-0670 Fax: (803) 724-0674

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Page 16134 Minimum Level of Maintenance
Column 3
Paragraph 91.7 (i) (2)

Recommended Changes:

The last sentence of this section should be changed as follows.

This requirement remains in effect until **the property is either leased or sold.**

Note: **Bold text** indicates the proposed change.

Why:

As currently written, this section refers back to the time frames in paragraph 91.7(h)(4). These time frames are totally unacceptable in the context of providing minimum levels of maintenance. For example, maintenance could stop one week after the Redevelopment Authority submitted its reuse plan. However, it might be a year or more after submission of the reuse plan before any property was leased or conveyed. Without maintenance during this time period, the reuse potential of the property could be lost.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

Phone: (803) 724-0670 Fax: (803) 724-0674

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Page 16157
Column 2
Paragraph 91.7 (j)

Transfer of real property or
facilities to persons paying
The cost of environmental
restoration activities on the
property.

Recommended Changes:

A requirement for job-creation should be added to this section.

Why:

As this section is currently written, property could be conveyed
without creating or retaining a single job in the local
community.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

Phone: (803) 724-0670 Fax: (803) 724-0674

MARCH JOINT POWERS AUTHORITY

June 15, 1994

1025
6/27

BTO
Capt Durgin

Office of the Assistant Secretary of Defense for Economic Security
Room 3D854
The Pentagon
Washington, D.C. 20301

SUBJECT: COMMENTS ON THE "INTERPRETIVE GUIDANCE" PUBLISHED IN THE 4/6/94 FEDERAL REGISTER

The March Joint Powers Commission, the governing body of the March Joint Powers Authority, is pleased to submit these comments on the "Interpretive Guidance" for military base closure and realignment.

On April 6, 1994, the Department of Defense published in the Federal Register its "Interim Final Rule" for implementing the BRAC 93 decisions. The Rule was effective immediately, but it also allowed for a comment period lasting through July 5, 1994.

The comments on these guidelines provided by the March Joint Powers Authority are grouped into one of five categories:

- DoD and Federal Screening/Property Disposition Process;
- The "McKinney Act" Screening Process;
- Short Term Interim Leases;
- Sale of Marketable Properties; and
- Economic Development Conveyances.

The comments are a result of questions and concerns raised at the local level and as a result of attending the "Outreach Seminar" in San Francisco on May 12-13, 1994. Where possible, the comments will be put into the format suggested at the Seminar.

DOD AND FEDERAL SCREENING/PROPERTY DISPOSITION PROCESS

Flexibility of Dates

The Rule establishes dates for filing under varied screening announcements. The MJPA is concerned that reuse requests are and

Comments
June 15, 1994
Page 2.

will be accepted after the announced screening dates have passed. Will letters of interest be accepted if they are filed after the published deadlines?

Timing

The time frame for responding to the screening announcements were past prior to the publication of this Rule. Will this enable DOD and federal interest to argue for reopening the screening process?

Screening Process Prior to Planning Efforts

Screening is occurring prior to the community's completion of land use or reuse plans. This makes it impossible for the planning effort to consider the disposition of properties to DOD or federal agencies.

Provisions to Request Additional Information from "Applicant"

The Rule sets a time frame for responding to the screening announcements, but it does not indicate the information that needs to be provided. There should be a minimum submittal requirement so that the requests can be analyzed based on comparable information.

Assessment of Competing Requests

Multiple requests for the same land and/or buildings are being received. The Rule does not adequately address the priority for disposition of properties based on some established criteria. If the President's Five Part Program is to be implemented, then job-generating/economic development activities should receive the highest priority.

Cost

Will DOD or other federal agencies have to pay for transfer of property designated as excess? If so, will they have to demonstrate the ability to pay early in the process so that property is not held in limbo until some future federal budget year where funding is made available?

Department of the Interior

Interior is mentioned in several locations in the Rule, but not in relation to Fish and Wildlife or the Endangered Species Program. If property is desired for habitat conservation, either through new

dedications or transferred commitments made by the Air Force, then Fish and Wildlife should have to pay the fair market value of the property just as any other agency would. This should be stated in the Rule.

Redevelopment Authority/Redevelopment Plan

For the purposes of local communities in the State of California, this is a confusing choice of terms. "Redevelopment Authority" has legal meaning in this state. Some local entities may be organized to plan, and even implement, reuse activities without being designated a Redevelopment Agency. "Local Reuse Agency" would be a better choice of terms.

This comment also applies to the term "Redevelopment Plan." A redevelopment plan has legal meaning and is clearly different from a "Reuse Plan" or a "Land Use Plan" (general plan or master plan). It would be more descriptive to call the local effort a "Base Reuse Plan." This could locally expanded to meet the California legal requirements of a redevelopment plan or a community general plan.

Role of the Redevelopment Authority

Throughout the Rule, it is apparent that the local community is intended to have a major role in deciding the disposition of property. However, the language is ambiguous as to the actual authority of the local reuse agency. If the community is to be empowered in the reuse planning and implementation process, then that empowerment should be clearly defined.

For example, in Section 91.7-(a)(2i3), the military departments "should consider their input, if provided" with regard to the DOD screening process. This is not consistent with the entire Section relating to the development of a "local redevelopment plan" (91.7-(c)). If the plan is to have real meaning, then the military departments should be doing more than just "considering" the community input.

Screening for State, Local, and Non-Profit Agencies

If it is the intent to conduct screening for all state, local, and non-profit agencies during the McKinney screening period, then this should be more clearly stated. Section 91.7-(a)(8) refers to State and Local, but only in relation to the screening for homeless needs.

This language makes the policy toward other state, local, and non-profit agencies unclear. In fact, private not-for-profit agencies are not even mentioned. This unclear policy puts the local reuse agency in the difficult position of accepting letters of interest at any time within the process without any guidelines as to the handling of these requests.

Personal Property Disposition

The treatment of personal property is unclear. In fact, the description of the personal property disposition process at the Regional Outreach Seminar further confused the issue.

The requirement for the community to "identify the personal property it wishes to retain in its redevelopment plan" is unreasonable at an early stage in the planning process. By the time the community gets to that point, vital personal property could have been transferred or otherwise disposed of.

Relating the personal property to the reuse of a building is a good strategy. Increasing the opportunity for quick economic reuse in this manner should be a priority of the Rule.

THE "McKINNEY ACT" SCREENING PROCESS

Conflict with Existing McKinney Act Law

The process established in this Rule is fully supported by the March Joint Powers Authority. The JPA is working closely with local homeless providers toward the development of a supportable request for land/buildings under the provisions of the Act. If, however, screening for the McKinney requirements were to be allowed at any time prior to a record of decision, that would put the local planning process constantly in jeopardy.

Minimum Time to Begin McKinney Screening

The March JPC is completely supportive of establishing a minimum time frame (June 1, 1994) to initiate the McKinney Act screening process. This means that, at a maximum, the McKinney process will have been completed in 175 days. This is a reasonable time frame given the reuse planning requirements placed on the local reuse authority. For March AFB, the screening announcement by HHS was published in the Federal Register on May 6, 1994.

Local Review of McKinney Requests

There is no reference to the need for McKinney requests to be consistent with local reuse plans. Does the local reuse agency have any rights to review in this process?

In addition, McKinney Act requests which are ultimately granted have an impact on the adjacent land uses in a reuse plan. Does a McKinney Act request have to "mitigate" any negative impacts it may cause, and are those requests considered as a part of the Draft Environmental Impact Statement?

Application to HHS

Upon receipt of a letter of interest from a provider under the McKinney screening process, that provider then has 90 days to submit a formal application. The HHS guidelines (assuming some do exist) for the contents of this formal application should be referenced. If the community is to understand and support an application, then it should also understand the provider's needs, its plan, and its ability to perform.

SHORT TERM INTERIM LEASES

Circumstances for Entering into a Lease

The term "short term interim lease" was used in the Outreach Seminar, but it is not in the rule. If this is intended, then "short term" and "interim" should be included and defined.

Delegation of Leasing Authority

Encouragement to redelegate leasing authority, assuming that this means to the local reuse agency, is a good policy inserted into the Rule and is supported by the March JPA. If this is done, it is one of the few instances in the rule where actual authority to make a decision is given to the local reuse agency.

Does the redelegation mean a three-party lease? If so, this should be clearly stated in the rule. The sharing of any revenues from the lease, or the transfer of any property maintenance responsibilities in the interim period, should also be clearly defined.

Reduced Lease Cost

Less-than-market leases which are authorized in this Rule are also supported in the March JPA. How is the market determined? Is it similar to the discussion regarding "value" for the sale of marketable properties?

Consistency with Local Planning Efforts

Short term interim leases resulting in a new use on the Base may or may not be consistent with an ultimate reuse plan. Without knowing this in advance, approval of an interim lease could create the intent of a longer term commitment that may restrict more economically advantageous reuse efforts in the future. It is assumed that the local reuse agency will have approval authority over these leases, but that should be stated.

Early Marketing of Properties

March AFB is clearly unique in the closure and realignment process. Since the base remains a Reserve facility, marketing for job generating and economic development purposes is an undefined function.

It should be the responsibility of the local reuse agency to promote reuse of excess/surplus properties as early as possible. This could come into conflict with the screening processes and the needs or desires of the Reserves (DOD) or other federal agencies, but marketing is vital if early reuse through interim leases is to be realized. The Rule should recognize this and encourage marketing efforts.

SALE OF MARKETABLE PROPERTIES

Process of Assigning Value to Potential Sales

The process for assigning value, typically done in the private and public sectors through real property appraisal, is unclear. If true market value in the region is to be the basis for sale, then why not require an official appraisal?

Demonstration of Job-Producing Activities

Prior to the sale of marketable properties, demonstration of the creation of new jobs is required. How will this be done? Local

Comments

June 15, 1994

Page 7.

governments frequently encounter this difficulty when engaging in economic development incentives.

If the requirements for demonstrating job creation are not defined, then there is the distinct possibility that sale of marketable properties could become a speculative venture. In a "down" real estate economy where values are depressed, well financed businesses could see an advantage to purchase for future development this prime property. In fact, this may not be a bad situation in all cases if the proposed "project" is supported by the local reuse agency.

Some better criteria for the transfer of marketable properties needs to be established.

Demonstration of Economic Benefits

If jobs created is not the criteria, then a demonstration of economic benefit should be defined. This comment is similar to the previous one.

Compatibility with Community Planning

Perhaps the greatest difficulty in early sales is the commitment created for the land use planning process. Sales (and leases) should occur in a manner that is consistent with the community reuse plan. In many cases, this plan will not be completed or adopted as local policy prior to the announcement of properties for sale.

ECONOMIC DEVELOPMENT CONVEYANCES

Community at the End of the Process

The concept of economic development conveyances is fully supported by the March JPA. This new policy of base reuse for economic purposes is the cornerstone of the Clinton Five-Part Program.

Unfortunately, the rule reads very clearly. The community, and conveyances for economic development purposes, comes at the end of the process! If the DOD does not want the property...if other federal agencies do not want the property...if homeless providers do not want the property...if it does not lease...if it does not sell...then the community has access to it! Perhaps the President/s policy would be more effectively implemented, creating

Comments
June 15, 1994
Page 8.

more jobs and economic development, if the community was moved to the front of the pecking order!

Value of Properties that are not "Marketable"

If a building or property is not leased or sold, demonstrating that there is no market for it, then its value should be greatly diminished as an economic development conveyance. A process for determining this value at the time of transfer should be included in the Rule.

Public Benefit Conveyances

Public benefit conveyance is mentioned in the rule, but there is no clear indication regarding its definition, nor is it stated where public benefit transfer may fall into the process.

On behalf of the March JPC, I hope that you will be able to incorporate our comments and seriously consider some of the questions raised in this letter. If possible, I would appreciate any written response that could be forwarded to me at your earliest possible convenience.

Sincerely,



Denise Lanning, Chairwoman
March Joint Powers Commission

DL/SA/
6/15/94



1026
6/27

City of Orlando

OFFICE OF LEGAL AFFAIRS

400 SOUTH ORANGE AVENUE
ORLANDO, FLORIDA
32801

(407) 246-2295
FAX (407) 246-2854

POST OFFICE DRAWER 1151
ORLANDO, FLORIDA
32802

June 23, 1994

Office of the Assistant Secretary
of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-8000

VIA FEDERAL EXPRESS

RE: COMMENTS TO INTERIM RULES IMPLEMENTING TITLE
XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT
FOR FY 1994

Dear Sir or Madam:

Enclosed for your consideration are comments from the City of Orlando in regards to the Interim Rules Implementing Title XXIX of the National Defense Authorization Act for FY 1994. The City is the Local Redevelopment Authority affected by the closure of the Naval Training Center Facility in Orlando.

We have focused our comments on four (4) sections of the Rules:

Paragraph (b): McKinney Act Screening
Paragraph (d): Jobs Centered Property Disposal
Paragraph (f): Profit Sharing
Paragraph (i): Minimum Level of Maintenance.

The City is very interested in the outcome of these Rules, and therefore requests that we be given specific notice of any public meetings or hearings in which the Rules will be discussed.

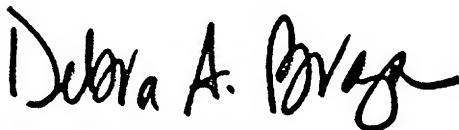
Notice should be sent to:

Mr. Herb Smetheram
Executive Director
Naval Training Center Base Re-Use Commission
City of Orlando
400 South Orange Ave.
Orlando, Florida 32801

Letter to the Assistant Secretary of
Defense for Economic Security
June 23, 1994
Page 2

If you have any questions in regards to our comments, please contact either Mr. Smetheram at (407) 246-3093 or myself at (407) 246-3479. Thank you for your assistance.

Very truly yours,

A handwritten signature in black ink, reading "Debra A. Braga". The signature is fluid and cursive, with the first name "Debra" being the most prominent.

Debra A. Braga
Assistant City Attorney

Enc.

cc: Mayor Glenda E. Hood
Members of the Orlando City Council
Herb Smetheram, Executive Director
Captain Tom Lagomarsino, USN, Commander,
Naval Training Center, Orlando, FL.

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT
FOR FY 1994**

TO: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

FR: City of Orlando, Florida

RE: Closure of Naval Training Center Installation, Orlando, Florida

Page 16129

Column 2-3

Paragraph (b) - McKinney Act Screening

Recommended Changes:

§91.7, Paragraph (b) (4) - Within sixty (60) days from the date of receipt of the information from the Department of Defense, HUD shall make a determination of the suitability of each property to assist the homeless in accordance with the McKinney Act and shall publish a list of suitable properties that shall become available when the Base closes.

§91.7, Paragraph (b) (5) - Providers of assistance to the homeless shall have sixty (60) days in which to submit to HHS expressions of interest in any of the listed properties. If a provider indicates an interest in a listed property, it shall have an additional ninety (90) days after submission of its written notice of interest to submit a completed application to HHS. This period may be extended by HHS only upon a showing of good cause, and for a maximum additional extension of sixty (60) days. HHS shall then have twenty-five (25) days after receipt of a completed application to review and complete all actions on such applications.


Why: In paragraph 4 of the McKinney Act Screening process, certain irregularities in the deadlines appear. First, the regulations indicate HUD has two actions to take. First, it must determine the suitability of each property to assist the homeless and second it must publish a list of suitable properties. The current regulations are unclear whether both actions must be performed within sixty (60) days. From the standpoint of the local redevelopment authority/local government, it certainly appears that a sixty (60) day time frame should be sufficient for both the determination of suitability and the publication and this appears to be the intent of the legislation. Therefore, the change to paragraph (4), as noted above, specifies the sixty (60) day time period applies to both the determination of suitability and the publication.

Paragraph (b) - McKinney Act Screening

In paragraph 5, the rules state that providers have sixty (60) days to submit an expression of interest in the listed properties and then have an additional ninety (90) days to submit a "formal" application to HHS. Further, the rules state that HHS shall then have twenty-five days after receipt of a "completed" application to review and complete any and all actions on such applications. Two inconsistencies appear in this paragraph. First, the providers original ninety (90) day period runs from the indication of interest to submission of a "formal" application. However, the HHS twenty-five days for review does not begin until submission of a "completed" application. This inconsistency would appear to allow the time frames to run longer than the ninety (90) days allowed in that it may take some period of time for a provider to get from the formal application stage to the completed application stage. From the standpoint of a local government, it is our desire to have the ninety (90) day period of time for the provider to submit a complete application to HHS. This closes the period for submission and allows the local government some certainty in planning for the ultimate re-use of the Base.

Lastly, HHS is permitted to extend the deadline, however no grounds or reasons for the granting of an extension are provided. The revision we have made allows for extensions only for "good cause shown", and provides for a maximum sixty (60) day extension.

CITY OF ORLANDO, FLORIDA
400 South Orange Avenue
Orlando, Florida 32801


Glenda E. Hood, Mayor

DATE: June 23, 1994

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT
FOR FY 1994**

TO: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

FR: City of Orlando, Florida

RE: Closure of Naval Training Center Installation, Orlando, Florida

Page 16130 - 16131

Column 2

Paragraph (d) - Jobs Centered Property Disposal

Recommended Changes:

§91.7, Paragraph (d) (2) - The Military Departments should identify properties with potential for rapid job creation and begin, as soon as possible, but not later than completion of the new expedited McKinney Act Screening, paragraph (b) of this section, an appraisal or other estimate of the properties' fair market value. This appraisal shall consider the local reuse plan, local zoning and comprehensive plan, the environmental impact statement, required infrastructure upgrades, and other improvements which will be required to the property given its sale on an "as is where is" basis. Such appraisals or estimates should address a range of likely market values taking into account: feasible uses for the property; the uncertainties in property development; and, current market conditions (i.e., recognizing the state of the market after a closure announcement). The preferences of the local government as stated in the reuse plan and local zoning constraints shall also be considered. The appraisal should not be based on the replacement cost of the properties, since they may not be readily adaptable for civilian use. Additionally, the appraisal should not be based on the highest and best use, but the most likely range of uses consistent with local interests. All appraisals shall consider required infrastructure upgrades to assure that the property does not become a burden upon the local taxpayers. The above appraisal may be accomplished for 1988 and 1991 closures if it is determined that it would be beneficial to do so and will not delay the disposal process.

Paragraph (3) - To assist in the appraisal/estimation of fair market value of properties with a potential for rapid job creation, and to determine if interest exists in properties not originally identified for rapid job creation, the Military Departments shall, for 1993 and 1995 closures, advertise for expressions of interest in all or any substantial part of each closing installation. For 1993 and 1995 closures, the Military Departments shall advertise at the completion of the new expedited McKinney Act Screening process (see paragraph (b) of this section). The Military Departments shall consult with the local government prior to placing the advertisements.

Paragraph (d) - Jobs Centered Property Disposal

The Military Departments may advertise for expressions of interest in all or any substantial part of each closing installation on the 1988 or 1991 closure lists if it is determined that it would be beneficial to do so and will not delay the disposal process.

Paragraph (3) (i) - Advertisements for expressions of interest shall be open for six (6) months. Expressions of interest received should detail the intended use, the site plan, the jobs estimated to be created, the schedule of development and hiring, and an evaluation of the worth of the land and buildings. In addition, such expressions of interest include compliance with the local reuse plan, compliance with local zoning and comprehensive plans, and note the ability to provide infrastructure improvements which will be required, as well as demonstrate adequate financial ability to go through with the proposed development. Upon receipt of the expressions of interest, the Military Departments will consult with the local redevelopment authority in regards to the expressions of interest. The local redevelopment authority shall have the ability to review and recommend acceptance or denial of any expressions of interest received. Advertisement for expressions of interest will be conducted simultaneously with all other disposal actions and are not an additional step in the disposal process.

Paragraph (3) (ii) - The Military Departments shall analyze each expression of interest and determine within thirty (30) days of receipt if it is made in good faith and represents a reasonable development proposal. In making its analysis, the Military Departments shall consider the recommendation of the local redevelopment authority. After review of the recommendation by the local redevelopment authority, if the Military Departments decide that an expression of interest received demonstrates the existence of a ready market, the prospect of job creation, is consistent with the Base Re-Use Plan, local zoning, adequately addresses required infrastructure improvements, shows adequate financial ability to proceed with the development, and is consistent with the plans of the local redevelopment agency, and offers proceeds consistent with the range of estimated fair market value, it may decide to offer the property for sale. If the local redevelopment authority and the Military Departments (or his designee) do not agree on the proposed sale, the sale decision shall be referred to the Secretary of Defense (or his designee) for decision. The procedure for this review is set forth in paragraph (d) (5). Potential offerors will be required to work with the redevelopment authority so that their development goals will be compatible with the local redevelopment plan.

Paragraph (3) (iii) - (no changes)

Paragraph (4) - After the completion of the initial six (6) month advertisement period, if no offers have been received, the local redevelopment authority may request additional marketing assistance from the Military Departments. If no such request by the local redevelopment authority is made, no additional marketing of properties shall occur.

Paragraph (d) - Jobs Centered Property Disposal

Paragraph (5) - Pursuant to paragraph (d) (3), the local redevelopment authority has the ability to recommend approval or denial of any offers received. Should the local redevelopment authority, and the Military Departments disagree on whether the proposed sale should occur, the decision to sell shall be referred to the Secretary of Defense for decision. The local redevelopment authority may present its position in writing and may request a meeting with the Secretary of Defense in order to present its position to the Secretary. The Secretary shall consider the position of the local redevelopment authority and make a decision. Such decision shall be announced within sixty (60) days of the date the matter is referred to the Secretary of Defense.

Why: The Job Centered Property Disposal procedures do not appear in the underlying Statutes. It appears that these procedures were developed by the drafters of the rules. It truly appears that the procedures are an attempt to simply make money from those properties which could be marketed.

The Job Centered Property Disposal process appears to violate the sense of Congress and the President in that it fails to actively involve the local community in decisions made with regard to property on Bases which are to be closed. Public Law 103-160, Div. B, Title XXIX, Section 2903 (c), November 30, 1993, 107 Stat. 1915 provides that:

"In order to maximize the local and regional benefit from the reutilization and redevelopment of Military Installations that are closed, or approved for closure, pursuant to the operation of a Base Closure Law, the Secretary of Defense shall consider locally and regionally delineated economic development needs and priorities into the process by which the Secretary disposes of real property and personal property as part of the closure of a Military Installation under a Base Closure Law. In determining such needs and priorities, the Secretary shall take into account the redevelopment plan developed for the Military Installation involved. The Secretary shall insure that the needs of the homeless in the communities affected by the closure of such installations are taken into consideration in the redevelopment plan with respect to such installations."

Paragraph (d) - Jobs Centered Property Disposal

However, as the interim rules have been published, the redevelopment authority has absolutely no voice in the process until a decision to sell by the Military Department. Never is the local government consulted about responses which have been received as a result of the advertisements, whether such responses fit within the proposed use of the Base as set forth by the local government in the redevelopment plan or whether the proposed use meets the development needs and priorities as set forth by the local government.

Further, providing for local government input only at the end of the process, and only through a formal reconsideration mechanism, adds a completely unnecessary adversarial role between the local government and the Military Department. It truly seems in drafting the interim rules that the drafters have lost sight of the spirit of cooperation which was reiterated so many times by our federal leaders, and are attempting simply to sell off what property may be sold, without consultation to the local government. Even the most basic elements of coordination with the local government appear to be lacking in the sale process, in that there is no consideration of zoning requirements, infrastructure requirements and improvements due to the proposed development.

To add insult to injury, the drafters go further in paragraph 4 of the Job Centered Property Disposal Rule in that even if no expressions of interest are received during the first six (6) month advertisement period, the Military Department may decide to continue to market a few high-value installations for an additional period of time. Again, the local government is removed from the system, and is informed only at the end of the initial six (6) month advertisement period whether any high-value installations will be continued to be marketed at the close of the normal six (6) month period. The local government is not consulted early in the process, and may only object in the form of a request for reconsideration, again placing the local government authority in an unnecessarily adversarial position with the Military Department.

It should also be noted that in paragraph 3 (i), the statement is made that, "Advertisement for expressions of interest will be conducted simultaneously with all other disposal actions and are not an additional step in the disposal process." This statement is erroneous for the following reasons:

1. For 1993 Bases, the six (6) month advertisement period begins at the close of the McKinney Act Screening (paragraph (d) (3)).
2. As now provided in the Regulations (paragraph (b) (7) to (10)), at the close of the McKinney Act Screening, the local redevelopment authority can incorporate the property not claimed by the McKinney Act Screening process into the local redevelopment plan.


Paragraph (d) - Jobs Centered Property Disposal

3. Since the new six (6) month advertisement period does not begin until the close of the McKinney Act Screening, it adds at least six (6) months to the process and delays the time frame in which the local redevelopment authority can incorporate the property into the local re-use plan.

The suggested changes we have incorporated in paragraph d - Job Centered Property Disposal, attempt to do the following:

1. Involve the local government to a large extent in the initial stages of the advertisement period. This will allow the local government to feel confident that any proposals which may ultimately be accepted by the Military Department will be consistent with zoning regulations, infrastructure requirements, local comprehensive plans, and other normal development requirements. The local government must feel confident that any transfers under the Job Centered Property Disposal procedures will fit in the overall community plan, as well as comply with normal development laws, rules and regulations.
2. Attempt to revise the Job Centered Property Disposal rules to delete the unnecessary adversarial relationship by providing for early consultation and involvement of the local government, and providing for deferral of the sale decision to the Secretary of Defense should the local redevelopment authority and the Military Departments disagree on the sale.
3. Provide that no additional marketing shall occur beyond the initial six (6) month advertisement period unless additional assistance is requested by the local redevelopment authority.

CITY OF ORLANDO
400 South Orange Avenue
Orlando, Florida 32801


Glenda E. Hood, Mayor

DATE: June 23, 1994

COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT
FOR FY 1994

TO: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

FR: City of Orlando, Florida

RE: Closure of Naval Training Center Installation, Orlando, Florida


Page 16132
Column 2-3
Paragraph (f) - Profit Sharing

Recommended Changes:

In paragraph (f) (4) (iv) (A) and (B), specific capital costs and direct and indirect costs should be listed.

Why: The profit sharing provisions provided in the rules are too cumbersome and not "user friendly." Part 31 of the Federal Acquisition Regulations (48 CFR Part 31) consists of over forty (40) pages, the majority of which is not relevant to transactions of this type. The FAR regulations are generally intended for use in contracts between corporations and the federal government. Certain elements of Part 31 may be applicable, but in order to avoid unnecessary confusion, the relevant parts should be cited specifically, and at the very least, put together in a manual which is distributed to local redevelopment authorities for their use.

CITY OF ORLANDO
400 South Orange Avenue
Orlando, Florida 32801



Glenda E. Hood, Mayor

DATE: June 23, 1994

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT
FOR FY 1994**

TO: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

FR: City of Orlando, Florida

RE: Closure of Naval Training Center Installation, Orlando, Florida

Page 16134

Column 2-3

Paragraph (i) -

Minimum Level of Maintenance and Repair to Support Non-Military Purposes

Recommended Changes:

- (i) Minimum level of maintenance and repair to support non-base Military purposes.

* * *

- (4) The negotiated minimum maintenance agreement must be tailored to the specific non-Military uses, and must be sufficient to maintain the facilities in such a manner so that they will not deteriorate, and will continue to meet all code standards. The Maintenance Agreements shall at a minimum include the following:

- (i) Maintaining the facilities and equipment ~~that are likely to be utilized in the near term~~ at a level that shall prevent undue deterioration and allow transfer to the local redevelopment authority in an acceptable condition. This shall include, but not be limited to, the following:

1. Providing adequate utilities to prevent deterioration of the buildings;
2. Providing security to prevent vandalism of abandoned and vacant buildings and equipment;
3. Repair and replace any broken windows, glass, etc.;
4. Provide funding for required repairs to buildings and equipment which may be caused by vandalism; and

COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT
FOR FY 1994

TO: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

FR: City of Orlando, Florida

RE: Closure of Naval Training Center Installation, Orlando, Florida

Page 16134

Column 2-3

Paragraph (i) -

Minimum Level of Maintenance and Repair to Support Non-Military Purposes

Recommended Changes:

- (i) Minimum level of maintenance and repair to support non-base Military purposes.

* * *

- (4) The negotiated minimum maintenance agreement must be tailored to the specific non-Military uses, and must be sufficient to maintain the facilities in such a manner so that they will not deteriorate, and will continue to meet all code standards. The Maintenance Agreements shall at a minimum include the following:

- (i) Maintaining the facilities and equipment ~~that are likely to be utilized in the near term~~ at a level that shall prevent undue deterioration and allow transfer to the local redevelopment authority in an acceptable condition. This shall include, but not be limited to, the following:

1. Providing adequate utilities to prevent deterioration of the buildings;
2. Providing security to prevent vandalism of abandoned and vacant buildings and equipment;
3. Repair and replace any broken windows, glass, etc.;
4. Provide funding for required repairs to buildings and equipment which may be caused by vandalism; and


5. Provide such other items of maintenance and/or repair as may be required to assure that the buildings and equipment to be turned over to the local redevelopment authority will not become a burden upon the local taxpayers.

- (ii) Not delaying the scheduled closure date of the installation.

Why: As a local redevelopment authority, we are concerned that the Military will abandon buildings and that the minimum level of maintenance budgeted will be insufficient to keep the buildings from becoming a burden on the local taxpayers. We are concerned that adequate utilities will not be provided, causing the buildings to deteriorate quickly, that broken windows will not be replaced, that required repairs will not be provided should the buildings be vandalized, and that the buildings generally will become an eyesore and burden once the Military leaves.

From the standpoint of the local redevelopment authority, we would prefer to have more specifics in this section which delineate appropriate items and levels of maintenance.

CITY OF ORLANDO
400 South Orange Avenue
Orlando, Florida 32801


Glenda E. Hood, Mayor

DATE: June 23, 1994

OFFICE OF DEFENSE CONVERSION

Commerce Department

1650 Arch Street, 19th Floor Philadelphia, PA 19102-1684 215-686-3643 215-686-8304(f)

Terry Gillen, Director

June 24, 1994

Mr. Joshua Gotbaum
Assistant Secretary of Defense
for Economic Security
Room 3E808
The Pentagon
Washington, DC 20301-3310

Dear Mr. Gotbaum:

I am enclosing the City of Philadelphia's formal comments on the Interim Final Rule for Title XXIX of the National Defense Authorization Act for Fiscal Year 1994, as published in the April 6, 1994 issue of the Federal Register. We are concerned that the positive impact which the Pryor Amendments were intended to have on communities facing base closures has been substantially diminished by these implementing regulations.

Deference to the Department of Defense over the local government is a recurring theme in the Pryor regulations as currently proposed. Specifically, the Interim Rule emphasizes disposal of the facilities through direct advertisement and sale to the private sector over transfer of the property to the local redevelopment authority. This approach will be detrimental to local government efforts to effectively plan and reuse these facilities so that net economic growth and job opportunities will be created.

Other examples of this disturbing theme include the unilateral authority provided to DOD to remove certain broad categories of personal property from closing installations. Much of the personal property is necessary for successful reuse; at a minimum DOD should be required to notify the local government in advance as to what is being removed so that reuse plans can be adjusted accordingly. In addition, the regulations allow the disposing military department to offer sale of real property regardless of whether there has been an expression of interest. This is nothing more than providing DOD with the authority to circumvent the community and attempt to create a market where none exists.

Philadelphia
City
Planning
Commission
1515 Market Street
17th Floor
Philadelphia, PA
19102
215-686-4607
215-686-2939(f)

Philadelphia
Industrial
Development
Corporation
2600 Centre
Square West
1500 Market Street
Philadelphia, PA
19102-2126
215-496-8020
215-977-9618(f)

Private Industry
Council
Three Parkway
Suite 501
Philadelphia, PA
19102-1375
215-963-2100
215-567-7171(f)

In addition, it is critical to Philadelphia conversion efforts that the Pryor amendments be considered applicable to the Philadelphia Naval Shipyard property. The unique directives of the BRAC Commission to close the Philadelphia Naval Base, while instructing the Shipyard property be retained by the Navy for emergent use, have caused some confusion as to whether Pryor applies to the Shipyard. The economic development incentives of the Pryor legislation are necessary to generate sufficient economic growth and thereby, employment opportunities, for displaced Shipyard workers.

As I noted, the City's formal comments on the Interim Final Rule are enclosed. In addition to our specific comments on the regulations, I would like request that DOD issue a revised Interim Rule, as opposed to a Final Rule. This would allow communities the opportunity to review the revised regulations and ensure that issues critical to reuse planning are adequately addressed prior to final implementation of the regulations.

Thank you for your consideration of these issues.

Sincerely,

A handwritten signature in dark ink, appearing to read "Terry Gillen", with a stylized, cursive script.

Terry Gillen
Director, Office of Defense Conversion
Deputy Commerce Director

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section 90.3 - Definitions.

Page: 16126

Column: 1

Paragraph: (a)

Recommended Changes:

From: "Closure. All missions of the base have ceased or have been relocated. All personnel (military, civilian, and contractor) have either been eliminated or relocated, except for personnel required for caretaking and disposal of the base or personnel remaining in authorized enclaves."

To: (Add): "All base property (including buildings, other facilities and equipment) retained by a Military Department for 'emergent use,' but underutilized and available for leasing (as agreed upon by the Commander of the base in question and the local redevelopment authority) shall be treated as "closed" for the purposes of these regulations."

Why: To facilitate the creation of employment opportunities for a local community, the benefits of the Pryor regulations should apply to retained, but not utilized, property, as well as excessed property. If the distinction between retained and excessed property remains intact, the local redevelopment authority will be forced to develop two separate strategies for reuse of the properties.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (d) - Jobs-Centered Property Disposal

Page: 16130

Column: 3

Paragraph: (d) (2)

Recommended Changes:

From: "The Military Departments should identify properties with potential for rapid job creation and begin, as soon as possible, but not later than completion of the new expedited McKinney Act screening...an appraisal or other estimate of the property's fair market value.

To: (ADD) "Potential candidates for Jobs-Centered Property Disposal will be limited to properties for which prior, and documented interest from the private sector has been expressed to either the local government or the disposing Military Department.

Why: No specific criteria is provided for the process by which the disposing Military Department will determine whether a particular military installation is a candidate for rapid job creation.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (a) - Real Property Screening.

Page: 16128

Column: 3

Paragraph: (8)

Recommended Changes:

From:

"Screening of real property with State and local government agencies shall take place concurrently with McKinney Act screening."

To:

(ADD) The Department of Defense will notify the local redevelopment authority within 5 days of receiving a written expression of interest from a State or local government agency or a homeless provider.

Why:

Should State, other local agencies or homeless providers express interest in the real property of the closing military installation, notification to the local redevelopment authority is necessary to allow incorporation of the proposed reuse into the planning process.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (b) - McKinney Act Screening.

Page: 16129

Column: 3

Paragraph: (5)

Recommended Changes:

From:

"If a provider indicates an interest in a listed property, it shall have an additional 90 days after submission of its written notice of interest to submit a formal application to HHS, a period which HHS can extend."

To:

If a provider indicates an interest in a listed property, it shall have an additional 90 days after submission of its written notice of interest to submit a formal application to HHS, a period which HHS can extend for a period of no longer than 60 days.

Why:

The current language allows HHS to extend the homeless provider application period for an unspecified time period. So that such extensions do not unreasonably delay the conclusion of McKinney screening and the local government planning process, the extension period should be no longer than sixty days.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

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National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (d) - Jobs-Centered Property Disposal

Page: 16131

Column: 1

Paragraph: (4)

Recommended Changes:

From: "A few high value installations for which a ready market apparently exists may, nevertheless, not have generated any expressions of interest during the allotted 6 month period....In these cases, the Military Departments, based on completed appraisals or other estimates of the fair market value, shall inform redevelopment authorities that the property is expected to be offered for sale and an economic development conveyance should not be anticipated..."

To: Paragraph 4 should be eliminated in its entirety.

Why: If the private sector does not respond to public advertisements of a particular property with an expression of interest, then a "ready market" for the property does not exist. If there is no expression of interest from the private sector during the six-month advertisement period, the property should be made available for proposed economic development conveyances by the local redevelopment authority.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (d) - Jobs-Centered Property Disposal

Page: 16131

Column: 1

Paragraph: (d)

Recommended Changes:

From: "If the Military Department decides that an expression of interest received demonstrates the existence of a ready market, the prospect of job creation, and offers proceeds consistent with the range of estimated fair market value, it may decide to offer the property for sale."

To: "If the Military Department decides that an expression of interest received demonstrates the existence of a ready market, the prospect of job creation, and the potential to achieve estimated fair market value, it may decide to offer the property for sale, **only if the local redevelopment authority certifies that this approach is consistent with the reuse goals for the site. In addition, prior to acceptance of a private offer to purchase, the reuse must be determined by the local redevelopment authority to be consistent with the community reuse plan.**"

Why: The interim rule provides the disposing Military Department with the authority to dispose of property in a way which may be counterproductive to local economic development goals. Jobs-centered property disposal assessment is conducted prior to consideration of disposal to the redevelopment authority. Given the intent of President Clinton's 5-point plan to revitalize communities facing base closures, the local community/reuse plan, not the private sector, should be the first mechanism by which property is offered for transfer after the screening process. At a minimum, however, the local redevelopment authority must be a partner in the decision to lease or transfer title to a private agent.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (e) - Economic Development Conveyances

Page: 16131

Column: 3

Paragraph: (e) (1)

Recommended Changes:

From: "Generally, installations will be conveyed at no initial cost with a recoupment provision that shall permit DoD to share in any future profits should the base be later leased or sold. Bases in rural areas shall be conveyed under this authority with no recoupment if they meet the standards in paragraph (e) (6)."

To: "...Bases in rural and urban areas shall be conveyed under this authority with no recoupment if they meet the standards in paragraph (e) (6)."

Why: The interim rule states that closing facilities in rural areas are of "particular concern," and notes that recoupment is not required when the closure "will have a substantial adverse economic impact on the economy of the local community and on the prospect of its economic recovery from the closure." Due to numerous factors, including tax rates, the migration of businesses to suburban areas, and the resulting high unemployment rates, many urban areas are facing significant economic problems. (For example, Philadelphia has lost 263,000 jobs and approximately 30% of its tax base during the past twenty-five years.)

In 1978, President Jimmy Carter issued an Executive Order requiring the federal government to give preference to cities whenever it considered relocating federal agencies or facilities. President Clinton has made similar statements emphasizing his view that cities should be favored in federal facility location or relocation decisions.

Given the Administration's recognition of the plight of cities, the regulations should allow urban areas to be exempted from the profit sharing clause provided they meet the "adverse economic impact" criteria.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA. 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (e) - Economic Development Conveyances

Page: 16131

Column: 3

Paragraph: (e) (4)

Recommended Changes:

From: "Before making an economic development conveyance of real property, an appraisal or other estimate of the property's fair market value shall be made based on the proposed reuse of the property."

To: "Before making an economic development conveyance of real property, an appraisal or other estimate of the property's fair market value shall be made to determine value of the property given existing zoning regulations or zoning regulations as proposed by the Community Reuse Plan, current market conditions, current infrastructure conditions (to include buildings and utilities systems) as well as current environmental conditions.

Why: It is not reasonable to anticipate the level of local investment which may be required to achieve the "proposed reuse" of the property.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

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From: City of Philadelphia, Office of Defense Conversion

Re: Section (e) - Economic Development Conveyances

Page: 16131

Column: 3

Paragraph: (e) (4)

Recommended Changes:

From: "Before making an economic development conveyance of real property, an appraisal or other estimate of the property's fair market value shall be made based on the proposed reuse of the property."

To: "Before making an economic development conveyance of real property, an appraisal or other estimate of the property's fair market value shall be made to determine value of the property given existing zoning regulations or zoning regulations as proposed by the Community Reuse Plan, current market conditions, current infrastructure conditions (to include buildings and utilities systems) as well as current environmental conditions.

If the fair market value of the property is determined to be negative, the disposing Military Department, in consultation and with approval of the local redevelopment authority, shall either: 1) upgrade the property to a minimum level of \$ 1 fair market value; or 2) reimburse the local redevelopment authority for the cost of upgrading the property to that level.

Why: It is not reasonable to anticipate the level of local investment which may be required to achieve the "proposed reuse" of the property.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (f) - Profit Sharing.

Page: 16132

Column: 2

Paragraph: (f) (2)

Recommended Changes:

From: "In the absence of a determination by the Secretary of the Military Department concerned that a different division of the net profits is appropriate because of special circumstances, the net profits shall be shared on a basis of a 60 percent to the local redevelopment authority and 40 percent to the Department of Defense.

To: "...the net profits shall be shared on a basis of a 60 percent to the local redevelopment authority and 40 percent to the Department of Defense. The government will not begin to receive recoupment fees for the lease or title transfer of a particular building or facility until net profits are achieved for the entire site."

Why: The term "net profit" should be evaluated based on all the local investments to the entire property. For example, a particular building may be showing a profit because it has reached full tenant occupancy, the local redevelopment authority is likely to be carrying the cost of initial capital improvements as well as maintenance of the entire site for many years.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (f) - Profit Sharing.

Page: 16132
Column: 2
Paragraph: (f) (4) (iii)

Recommended Changes:

From: "The annual report required by the GSA provision will be deleted, and a clause requiring notification to the disposing Military Department of sales or leases will be substituted. The notice of sale or lease will be accompanied by an accounting or financial analysis indicating net profit, if any, from a sale, or the estimated annual profit from a lease."

To: "The annual report required by the GSA provision will be deleted, and a clause will be inserted requiring that the local redevelopment authority will provide the disposing Military Department with an annual notification of individual sales and lease transactions, to include accounting or financial analysis of net profit potential, for the entire site."

Why: Requiring notification and analysis per transaction would place an additional bureaucratic burden of community reuse efforts, and would hinder "fast-track" occupancy and job growth.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

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National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (f) - Profit Sharing.

Page: 16132
Column: 2
Paragraph: (f) (4) (iv)

Recommended Changes:

From: "In calculating the amount of any net profit from a sale or lease, the local redevelopment authority may include:

(A) Capital costs, as provided in 41 CFR 101-47.4908(b).

(B) Direct and indirect costs related to the particular property and transaction that are otherwise allowable under 48 CFR part 31 including the allocable costs of operation of the local redevelopment authority with regard to that property."

To: (Add): "Specific examples of allowable costs include demolition, infrastructure improvements, costs incurred while bringing utility systems into compliance with state and local codes, care and maintenance costs, off-site capital improvements such as entry road expansion, marketing, and property management expenses."

Why: Using federal procurement regulations as the basis for calculating allowable costs provides inadequate guidance to communities. Specific examples should be included, as local communities are not experts on these regulations, and would be at a decided disadvantage in negotiations with the disposing Military Department.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

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National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (f) - Profit Sharing.

Page: 16132

Column: 3

Paragraph: (4) (iii)

Recommended Changes:

From:

"The deed provision will forbid "straw" transactions (sales or leases to a cooperating party at a nominal price), transactions at other than arm's length, and other devices designed to circumvent the Government's recovery of its share of the net profits."

To:

As required for economic development and job creation, the deed provision will allow "straw transactions."

Why:

Because of existing environmental and infrastructure conditions at most former military installations, "straw" transactions are necessary to interest private companies in these properties. The purpose of "straw" transactions is not to avoid profit-sharing with the Federal Government, but to jump-start economic development and job creation.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA. 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (g) - Leasing of Real Property.

Page: 16133

Column: 1

Paragraph: (g)

Recommended Changes:

From: "The Secretaries of the Military Departments are authorized by Pub. L. 103-160, section 2906 to lease real and personal property at closing or realigning bases for consideration of less than the estimated fair market value..."

To: (Add:) "To encourage interim use of real property, the disposing Military Department should expedite its process in order to complete lease negotiations within three months of a request for the local redevelopment authority. Once a form of lease has been developed, leases for specific buildings should be processed by the disposing Military Department within 30 days."

Why: The intent of the Pryor legislation as well as the President's community revitalization plan is to generate economic growth and employment opportunities. A lease agreement must be completed before interim use can begin. It is, therefore, in the best interest of the displaced workers, the disposing Military Department and the local redevelopment authority, to expedite lease negotiations.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (h) - Personal Property

Page: 16133

Column: 2

Paragraph: (2)

Recommended Changes:

From:

"The exempted categories of personal property listed in paragraph (h) (5) of this section shall not be subject to review by the community."

To:

The exempted categories of personal property listed in paragraph (h) (5) of this section shall be subject to the following notification procedures to the community: The base commander shall issue a written notification to the local redevelopment authority outlining the items of equipment to be moved, the location to which they will be transferred and a suitable justification as to why the personal property is not being made available for community reuse. The Base commander can move or transfer the equipment the sooner of three weeks from the date of notification or when the community provides written acceptance of the notice.

Why:

The interim rule provides unilateral authority for DoD to remove certain broad categories of personal property from Bases. At a minimum, DoD should be required to notify communities in advance as to what is being removed and provide suitable justification as to why it is not being made available to the community for reuse.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

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National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (h) - Personal Property

Page: 16133

Column: 2

Paragraph: (3)

Recommended Changes:

From:

"Based on these consultations, the base commander is responsible for determining the items or category of items potentially enhancing the reuse of the real property and needed to support the redevelopment plan."

To:

Based on these consultations, the base commander and the local redevelopment authority are jointly responsible for determining the items or category of items potentially enhancing the reuse of the real property and needed to support the redevelopment plan.

Why:

The interim rule provides unilateral authority for Base Commanders to determine which personal property enhances reuse potential. Community input is required so that Base Commanders have current and accurate information regarding the community's redevelopment plan. As new information becomes available, such as previously unidentified companies who indicate interest in locating on the Base, the community's plans change and evolve (often daily).

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

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National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (h) - Personal Property

Page: 16133

Column: 3

Paragraph: (4)

Recommended Changes:

From:

"Personal property not subject to the exemptions in paragraph (h) (5) of this section shall remain at a closing or realigning base until one of the following time periods expire (whichever comes first): . . ."

To:

Personal property not subject to the exemptions in paragraph (h) (5) of this section shall remain at a closing or realigning base until:

(i) the community completes a personal property plan which identifies property required for reuse and presents the community's strategy for taking possession of such property; or

(ii) Six months after the date of closure or realignment of the installation.

Why:

The community reuse plan for a Base identifies the community's strategy for the reuse of real property, not personal property. Most often, the professionals preparing reuse plans on behalf of the community are experienced in real estate or physical planning and possess little or no credentials to evaluate personal property. As such, most communities need the benefit of additional specialized expertise or additional time to determine (on the basis of the reuse plan) which types of personal property will be valuable to the community.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

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From: City of Philadelphia, Office of Defense Conversion

Re: Section (h) - Personal Property

Page: 16133

Column: 3

Paragraph: (5)

Recommended Changes:

From:

"Personal property may be removed without regard to these time periods upon approval of the base commander, or higher authority within the Military Department, and after notice to the local redevelopment authority, if the property: . . ."

To:

Personal property may be removed without regard to these time periods upon approval of the base commander, or higher authority within the Military Department, and, pursuant to the (proposed) written notification and acceptance procedures identified in paragraph (2) of this section, by the local redevelopment authority, if the property: . . .

Why:

The interim rule provides unilateral authority for DoD to remove certain broad categories of personal property. At a minimum, DoD should be required to notify communities in advance as to what is being removed and provide suitable justification as to why it is not being made available to the community for reuse.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Action (h) - Personal Property

Page: 16134

Column: 2

Paragraph: (6)

Recommended Changes:

From:

"If the real property is transferred at or near estimated fair market value, the value of the personal property shall be included in the estimated fair market value of the real property. If the property is conveyed separately from the real property, the value of the personal property shall be that at which it is carried on the installation's property account or estimated fair market value as agreed to between the parties at the time of transfer."

To:

If the real property is transferred at or near estimated fair market value, the value of the personal property may or may not be (as agreed to by the community and the Base Commander) included in the estimated fair market value of the real property. If the property is conveyed separately from the real property, the value of the personal property shall be zero or that which is agreed to between the parties at the time of transfer.

Why:

As we understand it, the intent of the interim rule is to provide flexibility to Base commanders and other military personnel in assisting communities with reuse of installations. The interim rule, unless modified, does the opposite by prescribing the terms by which the transfer of personal property is to occur.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

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From: City of Philadelphia, Office of Defense Conversion

Re: Section (h) - Personal Property

Page: 16134

Column: 2

Paragraph: (7)

Recommended Changes:

From:

"In this context, similar means the original and the proposed substitute item are designed and constructed for the same specific purpose."

To:

In this context, similar means the original and the proposed substitute item are designed and constructed for the same specific purpose and are of comparable remaining useful life, technological capability and condition.

Why:

For communities to replace the economic activity lost by the closing of a military installation, the community must be left with a reusable asset for reuse. Currently, the interim rule allows the Military Departments to "cherry pick" technologically advanced or new equipment from closing bases.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion
Re: Section (i) - Minimum level of maintenance and repair
to support nonmilitary purposes.
Page: 16134
Column: 3
Paragraph: (1)

Recommended Changes:

From:

"This section provides procedures to protect their condition while the redevelopment plan is being put together."

To:

This section provides procedures to protect their condition while the redevelopment plan is being **implemented**.

Why:

The completion of a community's reuse plan does not coincide with the completion of a community's actual reuse of the installation. For that reason, DoD cannot turn over maintenance of installation assets to the community at the conclusion of the reuse planning process. Instead, the reuse plan can form the basis for mutual agreement between DoD and the community regarding the proper timeframe for transfer of title to the property and maintenance responsibilities.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (i) - Minimum level of maintenance and repair
to support nonmilitary purposes.

Page: 16134
Column: 3
Paragraph: (2)

Recommended Changes:

From:

"Public Law 103-160, section 2902 states that the Secretary may not reduce the level of maintenance and repair of facilities or equipment at the installation below the minimum levels required to support the use of such facilities or equipment for nonmilitary purposes, except when the Secretary of the Military Department concerned determines that such reduction is in the National Security interest of the United States. This requirement remains in effect until one of the time periods in paragraph (h) (4) of this section has expired."

To:

This requirement remains in effect until mutual agreement is reached between the community and the Military Department concerned regarding the turnover of maintenance responsibilities from the Military to the community. In no case shall this time exceed six months after the date of closure or realignment.

Why:

Base Commanders must have limited flexibility in deciding when to "turn over the Keys" to local communities. The reuse plan adopted by a community can form the basis for mutual agreement between DoD and the community regarding the proper time to transfer title to the property as well as maintenance responsibilities.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion
Re: Section (i) - Minimum level of maintenance and repair
to support nonmilitary purposes.
Page: 16134
Column: 3
Paragraph: (3) (ii)

Recommended Changes:

From:

"Where agreement cannot be reached [between the Military Department and the local community], the Secretary of the Military Department concerned shall determine the level of maintenance required. In no case shall the level of maintenance and repair:

(i) . . .

(ii) Require any improvements to the property to include construction, alteration, or demolition, except that required by environmental restoration."

To:

(ii) Require any improvements to the property to include construction, alteration, or demolition, except that which is required by environmental restoration or other improvements mutually agreed to by the Military Department concerned and the community."

Why:

There may be instances where reuse of an existing building or property requires the type of improvements which can be completed jointly by the community and Military Department prior to the closure. Base Commanders should not be prohibited from completing these improvements as long as no undue financial burden results on the Military Department concerned.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

HOME BASE

The Center for Common Concerns

June 22, 1994

OKAC

Steve

Office of the Assistant Secretary of Defense for Economic Security
Room 3D854, The Pentagon
Washington, D.C. 20301

1028
6/29

RE: Comments on the Department of Defense's interim final rule that implements Title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (the "Pryor Amendment Regulations")

To whom it may concern:

Base Closure Homeless Employment Network (BCHEN) is a coalition of advocates, homeless service providers, government officials, business people, and private parties who are united in believing that the base conversion process should ensure that some of the resulting jobs that are created go to homeless people. To that end, we ask that the Pryor Amendment Regulations be revised to allow homeless people, along with others in the affected communities, to benefit from base conversion.

As you know, Congress has recently expressed concern in the Pryor Amendment for the plight of homeless people and for the possibility of using base conversion as a tool to assist them. Specifically, it has provided that the "Secretary [of Defense] shall ensure that the needs of the homeless in the communities affected by the closure of such installations are taken into consideration in the redevelopment plan with respect to such installations." (National Defense Authorization Act of 1994, Sec. 2903(c)). Congress goes on to direct that the "Secretary of Defense shall give preference, to the greatest extent practicable, to . . . small disadvantaged business concerns" when it comes to entering into contracts, especially those that seek to "carry out activities for the environmental restoration and mitigation at military installations to be closed or realigned." (National Defense Authorization Act of 1994, Sec. 2912(a)).

We feel that the Department of Defense must tailor its proposed regulations to the economic needs of homeless people in affected areas to ensure that the intent of Congress and President Clinton to assist homeless people through the base conversion process is realized. This will dovetail nicely with other expressions of Congressional intent to ensure that jobs created by the expenditure of federal money be given to homeless and low income people. For example, Section 3 of the Housing and Urban Development Act of 1968 requires the Department of Housing and Urban Development to ensure that employment generated by federally funded housing and community development programs be directed primarily toward low-income people, and the Jobs Training Partnership Act has recently been amended to call for local Private Industry Councils to conduct outreach to hard to serve populations, such as homeless people. Congressional support for assisting homeless people through base closure is also manifested in Title V of the Stewart B. McKinney Homeless Assistance Act, which provides that when the government identifies unutilized/underutilized and excess/surplus property within its stock, homeless people receive a preference for receiving this property. Addressing the economic needs of homeless people in base closure regulations also would further the goals outlined in the Clinton Administration's recently released Federal Plan to Break the Cycle of Homelessness, and in President Clinton's Five Point Plan for base conversion.

Specifically, we recommend that Section 91.7(b) of the Pryor Amendment Regulations be substantially revised to include the following five points:

(a) **Vocational training and assistance for base conversion related work must be provided to homeless people.** Training will provide people with the skills needed to successfully perform the work required on the base property. Assistance will provide homeless people with the support they may need in successfully functioning in their jobs, such as transitional support, tools for their trade, union dues, appropriate clothing, etc. This training and assistance can be funded by the redevelopment authorities, the businesses and contractors that will benefit from the contracts with the redevelopment authorities, and money earned from lease or sale of base buildings and property.

(b) **A fixed set-aside must be provided for homeless people in all new hire jobs located at the bases.** For non-profit corporations seeking to serve homeless people through the provision of housing or services on base property, at least 30% of the total employee work hours for new hires shall be from homeless people. For all other employers on the bases, at least 20% of the total employee work hours shall be from homeless people. The set-aside shall be measured by total work hours, not by the number of workers hired. For the purposes of this requirement, worker hours shall include work performed by persons filling apprenticeship and on-the-job training positions. Specific set-aside authorizing language can mirror current Department of Defense statutes regarding set-asides in other contexts, such as the contract goal for small disadvantaged businesses in 10 U.S.C. § 2323. Homelessness for the purposes of these regulations shall mirror the definition of homelessness in the Stewart B. McKinney Act. Note that this homeless set-aside is not meant to preclude other possible set-aside requirements for disadvantaged individuals, displaced workers, or any other group for whom the Department of Defense feels particular concern.

(c) **Contractors and corporations must be required to make a good faith effort to meet the hiring requirements for homeless people.** In order to make a good faith effort, an employer must, at a minimum, go through a first source hiring pool of homeless workers that is developed and monitored by a consortium of local homeless agencies. The homeless agencies will screen, train, and keep track of those homeless workers who can be ready to fill an employer's request for employees. Employers participating in the program shall contact the consortium when they are seeking to fill slots for new hires, give the consortium three days to refer applicants, and interview and consider qualified applicants while retaining complete discretion in making hiring decisions. Such a process is currently working in Berkeley, California, through the city's Office of Economic Development.

(d) **Establish a most responsible bidder preference.** In determining which contractor shall win a given contract, the redevelopment authority should award more points to contractors who propose to hire homeless people at higher wage jobs and at jobs that are likely to lead to greater independence.

(e) **Impose sanctions for non compliance with these set-aside requirements.** As with any well-intentioned law, sanctions are needed to compel compliance. The Secretary of Defense, in keeping with his or her duty to ensure that the redevelopment authority's reuse plan takes into account the needs of homeless people, (National Defense Authorization Act for Fiscal Year 1994, Sec. 2903(c)), must ensure that the redevelopment authority awards no contract without first determining that the bidder is the most responsible bidder. Also, the Secretary must ensure that the redevelopment authority does not transfer property to any corporation that does not meet its fixed set-aside homeless hiring requirement, previously discussed in (b), or that has not made a good faith effort to hire the appropriate amount of homeless people by resort to the first source hiring pool of homeless people, at a minimum.

HOMEBase

The Center for Common Concerns

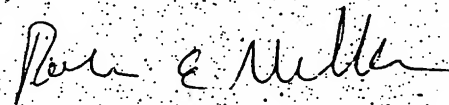
To ensure compliance, all bidders on contract work must submit a Plan of Implementation for their homeless hiring program. This plan shall include, at a minimum, the total number of people hired in specific job categories listed by each subcontractor; number of new hires; number of homeless people the contractor or subcontractor plans to hire; number of estimated work hours to be performed by homeless persons; and information on compensation, work schedules, job titles and tasks, and dates subcontractors will interview prospective employees. Contractors and subcontractors must submit weekly workforce charts listing workers by name, residential address, craft, job category, hours worked, sex, race, whether homeless or not. These charts will be public records.

The Secretary of the Defense and the redevelopment authorities shall have the power to impose sanctions on contractors, subcontractors, non-profit organizations and private corporations found to be in non compliance with the set-aside requirements. Such sanctions shall include, but not be limited to, the following (as appropriate): suspension of payments, termination of contracts, recovery by the redevelopment authority of 1% of the contract award price as liquidated damages, and a denial of the right to participate further in base conversion projects.

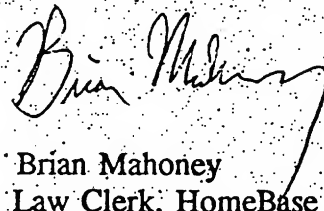
We trust that you share our concern, the concern of Congress, and the concern of President Clinton, that base conversion presents viable opportunities to assist homeless people in affected communities. We thank you for consideration of this proposal to ensure that homeless people get hired for some of the numerous jobs that will be created in the coming months and years.

If you have any questions about our proposal, please contact me at (415) 788-7961, extension 11. Thank you again for your consideration.

Sincerely,
Base Conversion Homeless
Employment Network



Robin E. Miller
Senior Staff Attorney, HomeBase



Brian Mahoney
Law Clerk, HomeBase

bmm
a:\ibm\bchen\dodregs.cmt



OFFICE OF STATE PLANNING

Office of the Governor

MAILING ADDRESS: P.O. BOX 3540, HONOLULU, HAWAII 96811-3540
STREET ADDRESS: 250 SOUTH HOTEL STREET, 4TH FLOOR
TELEPHONE: (808) 587-2846, 587-2800

JOHN WAIHEE, GOVERNOR
FAX: DIRECTOR'S OFFICE 587-2848
PLANNING DIVISION 587-2824

Ref. No. P-5066

June 21, 1994

Office of Assistant Secretary
of Defense for Economic Security
Room 3D814, The Pentagon
Washington, D.C. 20301-3300

Gentlemen:

By this letter, I am forwarding comments on behalf of the Barbers Point Naval Air Station (BPNAS) Reuse Committee on the interim final rule implementing Title XXIC of the National Defense Authorization Act for FY 94.

These comments address the proposed distinction in the interim rule between closed bases where a ready market exists and closed bases lacking such a market. In particular, we feel that it is too simplistic a notion to conclude that rapid job creation will result if properties are sold for quick development where a ready market exists.

In Hawaii, a ready market exists for any property having potential for development. This does not mean that such property is developed quickly. Rather, before buying property, prospective purchasers make the business decision to hold such property for a lengthy period before development will be completed and profit-taking may begin. Normally in all cases, it is expected that development will be delayed for several years while State and local land use designations are approved and subsequent zoning changes are obtained by the developer.

Another factor not considered in the interim rule is the importance for the property to be served by existing infrastructure (streets, water, and sewer services). If these services are not available to the property, development may be delayed for several years until they are provided by local government agencies providing such services. A much higher government priority would likely be placed on providing these services if the property is being developed by a local development authority under an economic development conveyance.

The general purpose of the attached comments is to propose that the interim rule be changed so that it provides case-by-case flexibility to the military decision-maker to decide whether a particular property should be developed for job creation purposes by (1) a private purchaser of the property, or (2) by means of an economic development

1029
6/29

Steve

HNH

4



Golden Gate Audubon Society

2530 San Pablo Avenue, Suite G • Berkeley, CA 94702 • Phone: (510) 843-2222 • Fax: (510) 843-5351

Americans Committed to Conservation • A Chapter of the National Audubon Society

Steve BRAC

1030 4/29

June 22, 1994

Office of the Assistant Secretary of Defense for Economic Security
Room 3D854
The Pentagon
Washington, D.C. 20301

Re: Interim Final Rule: "Revitalizing Base Closure Communities
and Community Assistance" (59 Fed. Reg. 16123)

Dear Sirs/Madams:

This letter sets forth the comments of the Golden Gate Audubon Society (GGAS) on the above-referenced Interim Final Rule (IFR).

1. Section 91.7(a)(5). This section of the IFR provides in relevant part that:

Decisions on the transfer of property to other Federal Agencies shall be made by the Military Department concerned in consultation with the local redevelopment agency. (Emphasis added.)

The GGAS believes that the consultation obligation represented by the above-quoted passage should be expanded to include other interested individuals and organizations. For example, the U.S. Fish and Wildlife Service (FWS) has made a request to the U.S. Navy for a transfer to it of a portion of the Alameda (California) Naval Air Station (ANAS). The FWS based its decision to make this request in significant part on information presented at a March 12, 1994, scientific symposium that the GGAS organized and co-sponsored. The IFR should require the U.S. Navy in making its decision on the FWS's request to consider the views not only of "the local redevelopment authority" but also of the GGAS as a demonstrably interested organization. Accordingly, section 91.7(a)(5) of the IFR should be modified by adding the following language to its last sentence: "and with any other individual or organization the Military Department has reason to believe is interested in any such transfer."

2. Section 91.7(a)(7). This section of the IFR provides in relevant part that:

If there is a Federal Agency request for transfer, the Secretary concerned may postpone the determination to transfer...for all or any part of the property at the installation for such period as the Secretary concerned determines is in the best interest of the communities affected by the closure of the installation. (Emphasis added.)

The GGAS believes that considerations other than "the best interest of the communities affected by the closure of the installation" may justify postponement of a Military Department's "determination to transfer." For example, in the case of the ANAS, the FWS has requested the U.S. Navy to initiate consultation under section 7 of the Endangered Species Act (ESA) for the purpose of ensuring in the context of the closure of the ANAS adequate protection for the habitat of two species listed under the ESA, the least tern and the brown pelican. It makes little sense (and, under the ESA, it may be unlawful) for the Navy to make its decision on the FWS's request for a transfer to it of a portion of the ANAS until the full nature and extent of the Navy's obligations under the ESA are determined through the section 7 consultation process. Accordingly, the last sentence of section 91.7(a)(7) of the IFR should be modified by adding after the word "is" the phrase "either (1)" and at the end of said sentence the phrase "or (2) necessary to ensure full compliance by the Military Department concerned with the requirements of applicable federal law, including but not limited to the requirements of the Endangered Species Act."

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in dark ink, appearing to read "John Bowers". The signature is fluid and cursive, with a large initial "J" and a stylized "B".

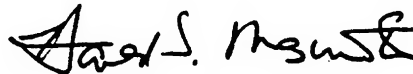
John Bowers
Member, Conservation Committee

Office of Assistant Secretary
of Defense for Economic Security
Page 2
June 21, 1994

conveyance to the local redevelopment authority. It appears that this flexibility is essential if the President's economic development objectives are to be realized at all closed bases.

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Harold S. Masumoto". The signature is stylized with a large, sweeping initial "H" and a cursive "Masumoto".

Harold S. Masumoto, Chairman
Barbers Point Naval Air Station Reuse Committee

Attachment

cc: Rear Admiral W.A. Retz

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Barbers Point Naval Air Station Reuse Committee
(Activity/Location/Community/Installation/Group)

Page 16130
Column 2
Paragraph 2

Recommended Changes:

(2) Although the statute only requires the local redevelopment authority to submit a written expression of interest within 1 year after the date the property is released from McKinney Act screening, the local redevelopment plan should be prepared within that 1 year period. The plan should at a minimum identify:

(i) Parcels recommended to be transferred to other Federal Agencies (whether or not a specific request for such transfer was made by the Agency during the screening period) and their intended uses.

(ii) Parcels recommended to be transferred or conveyed for uses such as homeless assistance, public benefit purposes, or other qualifying public purpose conveyance programs and their intended uses.

(iii) Parcels, and their intended uses, recommended to be conveyed by:

(A) Negotiated sale at estimated fair market value.

(B) Conveyance without initial consideration to local redevelopment authorities, with or without recoupment, as provided in this part.

(C) Sale for job creation purposes, as provided in this part.

Why: The plan should also show areas that the local community agrees are appropriate for sale for job creation purposes. Local agreement is essential for this program to succeed, otherwise property development and job creation may be delayed for lack of community support for zoning changes, etc.

Name: Harold Masumoto, Chairman
Address: Office of State Planning
P.O. Box 3540
Honolulu, HI 96811-3540

Phone: (808) 587-2833

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Barbers Point Naval Air Station Reuse Committee
(Activity/Location/Community/Installation/Group)

Page 16131

Column 2

Paragraph 2

Recommended Changes:

(4) A few high value installations for which a ready market apparently exists may, nevertheless, not have generated any expressions of interest during the allotted 6 month period. Regardless, such installations provide an opportunity for private sector rapid job creation which should be pursued. In these cases, the Military Departments, based on completed appraisals or other estimates of the fair market value, shall inform redevelopment authorities that the property is expected to be offered for sale and an economic development conveyance should not be anticipated. Redevelopment authorities shall be so informed as soon as possible, but not later than 6 months after completion of the McKinney Act screening process. In making these determinations, airport, port, and school property may be excluded if it appears that they are likely to be converted to public airports, ports or schools under existing public benefit conveyance programs. The determination that an installation will

be sold under paragraph (d)(4) of this section has 4 components:

(i) The property must have a high value.

(ii) There must be a ready market. Ready market means that offers to purchase at or near the estimated range of fair market value from the private sector covering all or most of the installation could be expected within 6 months of advertising the base for public sale.

(iii)

(iv) Lack of necessary streets, utilities and other infrastructure will not prevent rapid development of the property and delay job creation.

Why:

If the property has not already been fully developed, future development and job creation may be delayed because the property lacks essential public support facilities. Infrastructure improvements to support property development may be more quickly provided by the local development authority under an economic development conveyance.

Name: Harold Masumoto, Chairman
Address: Office of State Planning
P.O. Box 3540
Honolulu, HI 96811-3540
Phone: (808) 587-2833

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Barbers Point Naval Air Station Reuse Committee
(Activity/Location/Community/Installation/Group)

Page 16131
Column 2
Paragraph 2

Recommended Changes:

(4) A few high value installations for which a ready market apparently exists may, nevertheless, not have generated any expressions of interest during the allotted 6 month period. Regardless, such installations provide an opportunity for private sector rapid job creation which should be pursued. In these cases, the Military Departments, based on completed appraisals or other estimates of the fair market value, shall inform redevelopment authorities that the property is expected to be offered for sale and an economic development conveyance should not be anticipated. Redevelopment authorities shall be so informed as soon as possible, but not later than 6 months after completion of the McKinney Act screening process. In making these determinations, airport, port, and school property may be excluded if it appears that they are likely to be converted to public airports, ports or schools under existing public benefit conveyance programs. The determination that an installation will

be sold under paragraph (d)(4) of this section has 3 components:

- (i) The property must have a high value.
- (ii) There must be a ready market. Ready market means that offers to purchase at or near the estimated range of fair market value from the private sector covering all or most of the installation could be expected within 6 months of advertising the base for public sale.
- (iii) There must be a likelihood that necessary zoning changes will occur within a reasonable time after the sale so that rapid job creation may result from development of the property.

Why:

It is not enough that property can be readily sold for a high value, the local redevelopment authority should also indicate its support for the zoning changes needed for the proposed use. Otherwise, the proposed sale will not quickly result in the property development needed for rapid job creation.

Name: Harold Masumoto, Chairman
Address: Office of State Planning
P.O. Box 3540
Honolulu, HI 96811-3540

Phone: (808) 587-2833

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Barbers Point Naval Air Station Reuse Committee
(Activity/Location/Community/Installation/Group)

Page 16132
Column 2
Paragraph 2

Recommended Changes:

(5) Property may be conveyed under Pub. L. No. 103-160 to an authorized local redevelopment authority for economic development following submission of a written request to the Secretary of the Military Department concerned disposing of the property. The requests should contain the following elements:

(i) Description of the property to be conveyed.

(ii) Statement of the local redevelopment authority's legal authority to acquire and dispose of property under the laws of the governing State.

(iii) A redevelopment plan that includes economic development and job creation.

(iv) A statement explaining why existing public benefit conveyance authorities are not appropriate.

(v) A statement explaining why a high value sale of the property is not appropriate.

Why: This statement will justify why use of the economic development conveyance authority is more appropriate means to create jobs quickly than would be selling the property on the open market. Examples could be that a local fast-track zoning change process exists for public development projects, or that public funds may be available for infrastructure support projects.

Name: Harold Masumoto, Chairman
Address: Office of State Planning
P.O. Box 3540
Honolulu, HI 96811-3540

Phone: (808) 587-2833

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

STATE LANDS COMMISSION

LEO T. McCARTHY, Lieutenant Governor
GRAY DAVIS, Controller
RUSSELL S. GOULD, Director of Finance



EXECUTIVE OFFICE
1807 - 13th Street
Sacramento, CA 95814-7187

ROBERT C. HIGHT
Executive Officer
(916) 322-4105
FAX (916) 322-3568

June 28, 1994

1031 u/30

Office of the Assistant Secretary
of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301

Subject: Department of Defense/Interim Final Rule

Dear Assistant Secretary:

Enclosed are comments by the staff of the California State Lands Commission on the Interim Rule which was published in the April 6, 1994, *Federal Register*. The purpose of these comments is to suggest a means to address reversionary interests and/or deed restrictions that may affect certain lands within closing military bases.

The comments relate to three areas of the published interim rule: (1) the Summary Section; (2) Part 91/Real Property Screening; and (3) Appendix A to Part 91.

In addition to the standard comment forms which contain our comments and suggested language, I have enclosed a revised Appendix A (Process Flowchart) which reflects our comments.

Should there be any questions regarding our submittal please contact Dave Plummer at (916) 322-0595 at your convenience.

Sincerely,

A handwritten signature in cursive script that reads "Robert C. Hight".
ROBERT C. HIGHT
Executive Officer

Enclosures

Format For Comments On The Interim Rule

Implementing Title XXIX of the
National Defense Authorization Act for FY94

Forward Comments to: Office Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: California State Lands Commission
(Activity/Location/Community/Installation/Group)

Page 16124
Column 2
Paragraph 1

Recommended Changes: Add the following language to the end of Paragraph 1 (Real Property Screening):

The screening process also requires that the Department of Defense identify matters which affect title to the land within closing bases, such as deed restrictions, reversions of the land to the state in which they are found or to the Department of the Interior, and title conditions based on the character of land as tide and submerged (sovereign) land. Early identification will afford state and local government the opportunity to address title questions and to avoid false starts to reuse efforts.

Why: The Interim Rule as written does not provide for an early review for any State or local property interests which may exist by virtue of reversionary language, deed restrictions, or title conditions based on the character of land as tide and submerged (sovereign land). The current process, in dealing with closing military bases as a result of 1988, 1991, and 1993 actions, has led to lands within the closing bases, which the State of California contends are sovereign lands of the State which upon cession of use by the Department of Defense revert back to the State, being offered for disposal to federal and /or local agencies. Addressing these issues at the beginning of the base closure process will result in smoother reuse efforts.

Name: Dave Plummer
Address: California State Lands Commission
1807 13th Street
Sacramento, California 95814-7287
Phone: (916) 322-0595

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX of the
National Defense Authorization Act for FY94

Forward Comments to: Office Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: California State Lands Commission
(Activity/Location/Community/Installation/Group)

Page 16128
Column 2
Paragraph 3

Recommended Changes: Add a new subsection (3) to Section 91.7 (a), Real Property Screening and renumber the existing subsections (3) through (9) to (4) through (10).

New Subsection (3) language:

(3) As a part of the internal DoD real property screening of closing and realigning base properties, the Military Departments shall determine whether a facility lies on present or former tide and submerged lands (also known as state sovereign lands). If so, the Military Departments shall inform the state agency and/or local agency having jurisdiction to administer title in such lands of that fact, and inquire whether the state or local agency asserts any fee or lesser land title interest in the property. That State or local land title interest may be asserted because of terms in state statutes or deeds transferring the property from the state to the federal government; its tide and submerged lands status; the closing of the facility; or the federal transfer of adjoining upland areas. In conjunction with this subdivision, the state and/or local agency with jurisdiction over tide and submerged lands shall be encouraged to administer its interests in a manner to avoid land title litigation and to assist putting such property into reuse consistent with tide and submerged land uses (commerce, navigation, and fisheries) and the local reuse plan.

Why: The Interim Rule as written does not provide for an early review for any State or local property interests which may exist by virtue of reversionary language, deed restrictions, or title conditions based on the character of land as tide and submerged (sovereign land). The current process, in dealing with closing military bases as a result of 1988, 1991, and 1993 actions, has led to lands within the closing bases, which the State of California contends are sovereign lands of the State which upon cession of use by the Department of Defense revert back to the State, being offered for disposal to federal and /or local agencies. Addressing these issues at the beginning of the base closure process will result in smoother reuse efforts.

Name: Dave Plummer

Address: State Lands Commission, 1807 13th Street, Sacramento, CA. 95814-7287

Phone: (916) 322-0595

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX of the
National Defense Authorization Act for FY94

Forward Comments to: Office Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: California State Lands Commission
(Activity/Location/Community/Installation/Group)

Page 16135
Column Flow Chart
Paragraph n/a

Recommended Changes: Modify the Process Flowchart for Base Closure Community Assistance to comport with the requested changes that are attached. The suggested changes are as follows:

After the box entitled "Excess to Dod" and the "yes" path add a box entitled "Military Department Review for State or Local Agency Property Interests". Add a "yes" path to a box entitled "Return to State or Local Agency" and add a "no" path that leads to the current box entitled "Surplus to Federal Government". The remainder of the existing flowchart would remain in its current form.

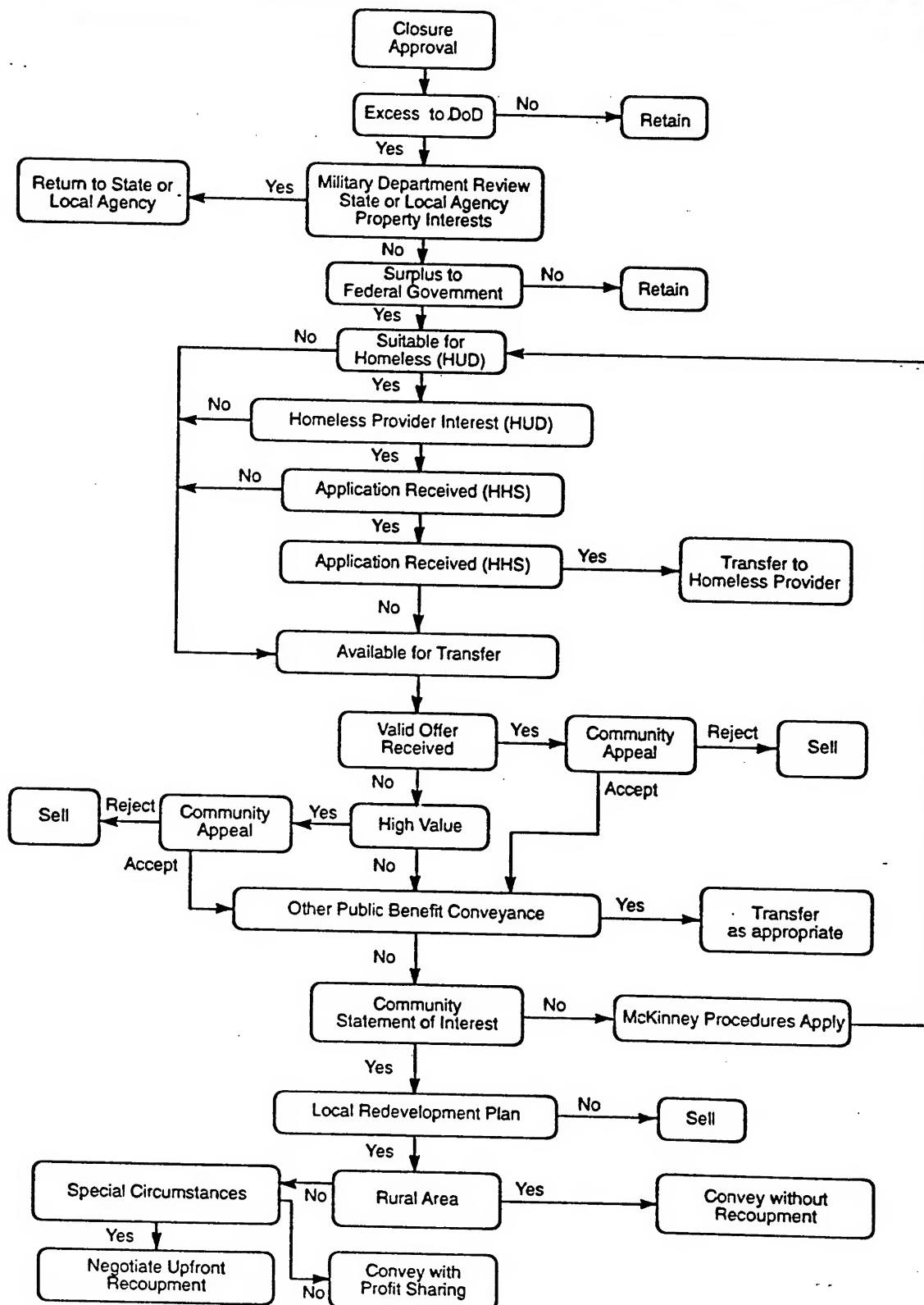
SEE ATTACHED REVISED FLOWCHART

Why: This change would reflect the enclosed requested changes to the Real Property Screening process.

Name: Dave Plummer
Address: State Lands Commission
1807 13th Street
Sacramento, CA 95814-7287
Phone: (916) 322-0595

✓ (NOTE: LIMIT TO 1 COMMENT PER PAGE)

Process Flowchart for Base Closure Community Assistance



COVINGTON & BURLING

1201 PENNSYLVANIA AVENUE, N.W.

P.O. BOX 7566

WASHINGTON, D.C. 20044-7566

(202) 662-6000

TELEFAX: (202) 662-6291

TELEX: 89-593 (COVLING WSH)

CABLE: COVLING

KENNETH W. MACK

DIRECT DIAL NUMBER

(202) 662-5169

1032 6/20

LECONFIELD HOUSE

CURZON STREET

LONDON W1Y 6AS

ENGLAND

TELEPHONE: 071-495-5655

TELEFAX: 071-495-3101

BRUSSELS CORRESPONDENT OFFICE

44 AVENUE DES ARTS

BRUSSELS 1040 BELGIUM

TELEPHONE: 32-2-512-9890

TELEFAX: 32-2-502-1598

June 28, 1994

VIA MESSENGER

Mr. Frank Savat
Office of the Assistant Secretary of Defense
For Economic Security
Room 3D814
The Pentagon
Washington, D.C. 20301

Re: Comments on Interim Final Rule,
32 C.F.R. Part 91, 59 Fed.
Reg. 16127 (April 6, 1994)

Dear Mr. Savat:

I write on behalf of the National Law Center on Homelessness and Poverty (the "Law Center") to submit our comments on the above-referenced Interim Final Rule. The Law Center is a plaintiff in the litigation entitled National Law Center on Homelessness and Poverty et al. v. Veterans Administration et al., Case. No. 88-2503-OG, which is pending in the United States District Court for the District of Columbia. The Law Center has been successful in obtaining various injunctive relief against the government, including the Department of Defense ("DOD"), the latest of which is an Order dated April 21, 1993 issued by Judge Gasch of the District Court mandating that the government take certain actions with respect to Title V of the Stewart B. McKinney Homeless Assistance Act, 42 U.S.C. §11411 (1992) ("Title V"). I write to point out that part of the above-referenced Interim Final Rule is not in accordance with either Judge Gasch's April 21 Order, Title V, or the National Defense Authorization Act for Fiscal Year 1994 ("NDAA"), Pub. L. 103-160, 107 Stat. 1547 (Nov. 30, 1993).^{1/}

^{1/} Section 2905 of the NDAA is also known as the "Pryor Amendment."

Mr. Frank Savat
June 7, 1994
Page 2

The Law Center formally objects to Section 91.7(b)(2)(iii) of the Interim Final Rule, published at 59 Fed. Reg. 16129, which reads:

Properties listed by HUD in the annual report for which no expression of interest has been received by HHS from a homeless provider and for which Department of Defense has received an expression of interest or bona fide offer in accordance with the provisions of section 501(c)(4)(C) of the McKinney Act, shall not be reported in accordance with the procedures in paragraphs b(3) through 11 of the section.

According to our reading of this provision, if an expression of interest is received for property pursuant to Section 501(c)(4)(C) of the McKinney Act, then the property will not be put through the Title V process even if the expression of interest is not followed by an application. The same is true if an offer is received and the offer is subsequently withdrawn (or presumably if an application is received but never approved). However, Title V, the NDAA and Judge Gasch's April 21 Order all require that properties be put through the Title V process if the expression of interest or offer is not successful. See 42 U.S.C. §11411(a); NDAA §2905; Order ¶4.

Therefore, the Law Center requests that this provision have an additional sentence appended to it which reads:

"However if the expression of interest is not followed by an application, or if the application is not approved, or if the offer is withdrawn or not accepted, then the property shall be reported in accordance with the procedures in paragraphs b(3) through 11 of this section."

* * *

The Law Center also formally objects to Section 91.7(b)(9) which reads:

If at any time during the 25 day HHS review period HHS rejects all applications for a

Mr. Frank Savat
June 7, 1994
Page 3

specific property, the Military Department should promptly inform the local redevelopment authority, the Governor of the State, and Federal Agencies that support authorized public benefit conveyances, of the date the surplus property will be available for community reuse. The local redevelopment authority shall then have 1 year to submit a written expression of interest to incorporate the remainder of the property into its redevelopment plan for the base.

According to our reading of this provision, if a homeless provider submits an application for a particular property and that application is rejected 25 days (or less) later, then DOD informs local authorities that the property will be available for community reuse. However, Title V, the NDAA, and Judge Gasch's April 21 Order all require that property be reserved for homeless provider application for much longer than twenty-five days. In fact, property is reserved for at least sixty days, and possibly longer depending on whether an application is received. See 42 U.S.C. §11411(d); NDAA §2905; Order ¶7.

The mistake in the regulation is that it assumes that there is a "25 day HHS review period" for all applications; after which the property is made available to the redevelopment authority. In fact, the twenty-five day period only describes the length of time that HHS has to act on an individual application. See 42 U.S.C. §11411(e)(3). The length of time a property is reserved for a homeless provider application is set out in the statutes and Judge Gasch's Order and is at least sixty days (and in many cases longer). Therefore, if the Law Center requests that this regulation be changed to read:

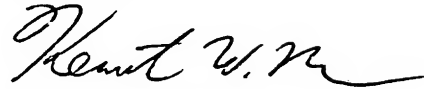
If at any time HHS rejects all applications (if any) for a specific property and the application period has expired, the Military Department should promptly inform the local redevelopment authority, the Governor of the State, and Federal Agencies that support authorized public benefit conveyances, of the date the surplus property will be available for community reuse. The local redevelopment authority shall then have 1 year to submit a

Mr. Frank Savat
June 7, 1994
Page 4

written expression of interest to incorporate
the remainder of the property into its
redevelopment plan for the base.

Thank you in advance for your assistance in this matter.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Kenneth W. Mack".

Kenneth W. Mack

cc: Carlotta Wells, Esq.
U.S. Department of Justice
Civil Division

Southeast Area Military Facility Reuse Alliance of Cities

BRAC

1033 6/30

June 24, 1994

Office of the Assistant Secretary of Defense
for Economic Security
Room 3D814
The Pentagon
Washington, D.C. 20301-3300

Re: Interim Final Rule - 32 CFR Parts 90 and 91
[RINs 0790-AF61 and 0790-AF62]
Revitalizing Base Closure
Communities and Community Assistance

To Whom It May Concern:

The rules promulgated in the Federal Register on April 6, 1994 (Vol. 59, no. 66, pp 16123-16136), while a step in the right direction, contain several flaws which will, if not corrected, inhibit the redevelopment of former military bases for the economic benefit of affected communities. The most significant of these flaws are: the lack of a definition of job creation, an implicit bias against public benefit conveyances, a failure to promote a regional consensus for reuse planning, and the lack of a baseline environmental survey.

I - Job Creation

The proposed rules do not take into consideration the implication of creating one job at the expense of another, or producing economic growth in one sector of the economy or jurisdiction while retarding growth elsewhere. The rules should provide that growth will be measured within an affected area in a fair and equitable manner so as not to benefit one jurisdiction over another. Failure to consider the regional implications of reuse planning can produce statistics which are misleading.

Part 91 of the rules addresses "Revitalizing Base Closure Communities-Base Closure Community Assistance." Section 91.3 is a list of definitions. We believe that a definition of "job creation" should be included in this section. We understand that an attempt was made to include such a definition in the Interim Final Rules, but this attempt was dropped when suitable language could not be drafted. Since this issue is central to real--rather than sham--job creation, we provide the following views:

A realistic definition of job creation must include the realization that jobs created are "net jobs created" and not merely the jobs included in a proposed redevelopment effort. If the standard is not "net jobs created," then essentially any reuse could qualify, even a reuse that would marginally increase "on base" employment while devastating the total jobs in the "off base" regional economy. This would be particularly true in the case of a high-volume, discount shopping center development that might displace two to three retail jobs for a single "gross" job created. The Department of Defense should embrace a "net jobs created" definition

and recognize that taking a myopic view of job creation (i.e., rapid and incidental job creation, such as the construction jobs required to build facilities) is in reality an intellectually dishonest policy.

We believe that defining "net jobs created" can be operationalized by either of the following methods:

1. **Metropolitan Planning Authority**---Since reuse of military bases should be led by a community-based, consensus-building authority, determining whether a particular reuse proposal is really a job creator should be the responsibility of the regional or metropolitan planning authority which covers the region impacted by the base closure and reuse. The Office of the Secretary of Defense should not be burdened by making a final determination of the job creating potential of reuse proposals; the Secretary should only insure that the taxpayers' interests are being looked after. Reliance on the region's planning authority is an efficient means to this end.
2. **Performance Standard**---Less than fair market conveyance could be conditioned on actual increases in employment within the standard metropolitan statistical area containing the redeveloped military base. The net increase in total full-time employment from reuse would be determined (after the fact) by subtracting the sum of base reuse employers' total full-time employment from the total full-time employment of such entities within the standard metropolitan statistical area encompassing the closed base during a 12-month base year. In cases where a military base is proximate to two or more SMSAs, job creation would be measured in the combined SMSAs.

To determine if the reuse employers' "full-time employment of employees" in the 12-month period is equal to or greater than the full-time employment of employees in the base year, defined as the reuse employers' total full-time employment in the calendar year preceding the year of the base closure, the total full-time employment of employees employed by the reuse employers in the 12-month period should be equal to or exceed the total full-time employment of employees employed by the reuse employer in the standard metropolitan statistical area in the base year. The "total full-time employment of employees" should be equal to the sum of both of the following:

- The total number of hours worked for the reuse employers by full-time employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.
- The total number of full months worked for the reuse employers by full-time employees who are salaried employees divided by 12.

In the case of a reuse employer with a base year of less than 12 full months in the standard metropolitan statistical area, for purposes of determining the net increase in full-time employment of employees, the total full-time employment of employees in the 12-month period shall be multiplied by a fraction, the numerator of which is the number of full months in the taxpayer's base year and the denominator of which is 12.

Should the actual reuse result in a net decline of jobs, the military department should accelerate its recovery of the fair market "write down" of the transferred property.

It has been claimed that local zoning authority determines reuse. But, it is important to note that local zoning is not the "be all and end all" when determining reuse issues. While it is correct that a local jurisdiction with zoning authority, in whose sole jurisdiction is a former base, may be able to control the reuse of that base, the fact of the matter is that employees travel across local jurisdictional boundaries, especially in highly urbanized areas. Economic gains in one community may result in losses in adjacent communities. The proposed rules have the inherent potential to pit one jurisdiction against another. This is especially the case where municipal sales tax is distributed on a point-of-origin basis. In protracted legal or political battles over the transfer of employment or tax revenue, the jurisdictions--as well as the Department of Defense--will be the losers. We believe the President's Five Point Plan is not meant to pit community against community and that the Department of Defense should not foster a condition of entrenched conflict between communities.

II - Public Benefit Conveyance

It is unfortunate that the rules, as proposed, may not give enough importance to public benefit conveyances. While the Department of Defense recognizes that the new rules do not supersede existing federal property disposition rules concerning public benefit transfers, the military services generally are of the opinion that public benefit conveyances are not job creators and, therefore, are of less value in the disposition process. Although the proposed rules do mention the use of public benefit conveyance, the rules emphasize dispositions that will create some revenue for the Department of Defense (when there is a strong market for the property) or a less-than-fair-market conveyance (when there is no market for the property). From a purely public policy perspective, failure to transfer an existing public asset to another government agency, whether federal, state or local, is a questionable stewardship of the taxpayers' trust. The Department of Defense must recognize that the reuse impacts of former military bases are rarely confined to the boundaries of a single jurisdiction.

III - Local Concerns

In spite of repeated inputs to the Department of Defense that consensus building is a major problem area, nowhere in the proposed rules is the issue of local consensus building addressed. The Secretary and the military departments should promote local community consensus building, including consensus building involving adjacent jurisdictions that are impacted both by the base closure and the proposed reuse. An inclusive process should be explicitly required, and the Department of Defense should take specific actions following the announcement of base closure to educate all affected jurisdictions on the process that will be followed in converting the base to civilian uses, and to encourage development of local consensus on reuse plans. Limiting reuse planning to only communities with zoning authority is a far-too-narrow perspective, especially in light of the judicial recourse available to parties impacted by federal decision making under NEPA.

IV - Baseline Environmental Survey

The regulations also fail to consider how to supply the information which a redevelopment authority must have in preparing a comprehensive local redevelopment plan. Section 91.7c of the regulations encourages the preparation of a plan within one year which identifies the use of the parcels of land on the base. But, without a baseline environmental survey, such an effort may well be a waste of time. Without analysis of the substantive environmental issues which will affect remediation, project timing, availability, and reuse limitations, it will be difficult to encourage commitments of private resources for the redevelopment. The proposed rules should be changed to provide that:

1. The base realignment and closure cleanup team shall meet with the Redevelopment Authority or other agency within 60 days of a closure decision and provide, at that time, all information concerning environmental contamination, historical preservation, endangered or threatened species, and wetlands issues at the base.
2. The base realignment and closure cleanup team shall meet with the Redevelopment Authority or other agency every 90 days thereafter to share information concerning the status of the EIS and any additional environmental information which has subsequently come to light.
3. A baseline environmental survey, meeting nationally-accepted standards for lending institutions, shall be completed within 180 days of the final closure decision. These documents will be provided to the Redevelopment Authority or local agency for its use in preparing a local redevelopment plan.

4. Where a Redevelopment Authority or other agency as specified in the statute exists, it will be made a cooperating agency by the Department of Defense in the NEPA process.
5. If no Redevelopment Authority exists, cooperating agency status in the NEPA process will be extended to any community in whose jurisdiction the installation is wholly or partially located.
6. If no Redevelopment Authority exists, cooperating agency status in the NEPA process will be extended to any community that is economically impacted by the closure or proposed reuses.

With regard to McKinney Act proposals, we believe that the Department of Defense should have the ability to reject these proposals when overall property reuse would be impaired. Of course, the Secretary of the military service involved should insure that the community-based consensus-building organization has been conferred with and has agrees with the actions of the military service. The Secretary should not be made to take unilateral action, since the reuse of the military installation is a community issue.

Conclusion

Our overall evaluation of the interim final rules is that they are far too complicated and bureaucratic to be helpful. We recognize that the Department of Defense is dealing with base closures from 1988, 1991 and 1993 as well as closures from, at least, a 1995 round. We applaud Department of Defense efforts to streamline the disposition process and assist community redevelopment. However, because the rules appear to create merely a "business as usual" atmosphere, we believe that communities will find it difficult to attract private developers and capital under these rules. The rules' disposition methodology and the environmental impediments left unresolved support this judgement.

While some progress has been made in the disposition process, the Department of Defense, through the proposed rules, gives the appearance that it is still trying to sell former military bases and that the Department of Defense is less interested in seeing that communities have every advantage for redevelopment.

We are particularly concerned by the proposed rules' failure to address the issue of local consensus. Failing to achieve local consensus will continue dissipation of resources and delay in base conversions to civilian uses. Instead of promoting conversion, less-than-fair-market transfers may become just another issue for controversy, with the Department of Defense at the focal point, when local consensus is not achieved.

Interim Final Rule - 32 CFR Parts 90 and 91
[RINs 0790-AF61 and 0790-AF62]
Revitalizing Base Closure
Communications and Community Assistance
June 24, 1994
Page 6

Finally, the Department of Defense should fully embrace President Clinton's Five-Point Plan and its underlying concepts. The rules should allow for flexibility when dealing with communities and use every method available for disposing of former military property--including public benefit conveyance. In most instances, transfer of property to state and local entities does create new jobs in the community.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert G. Wagner". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Robert G. Wagner
Co-Chair

RGW:fc

Southeast Area Military Facility Reuse Alliance of Cities

Steve Kleiman

June 28, 1994

Office of the Assistant Secretary of Defense
for Economic Security
Room 3D814
The Pentagon
Washington, D.C. 20301-3300

Re: Interim Final Rule - 32 CFR Parts 90 and 91
[RINs 0790-AF61 and 0790-AF62]
Revitalizing Base Closure
Communities and Community Assistance

To Whom It May Concern:

The accompanying comments on the Interim Rule are provided by the Southeast Area Military Facility Reuse Alliance of Cities in the format requested by the DoD. An earlier, and somewhat amplified, letter of comment was sent to the Office of the Assistant Secretary of Defense on June 24.

We trust that these comments--and our earlier letter--will be reviewed by your office before the Final Rule is drafted.

Robert G. Wagner for ROW
Robert G. Wagner
Co-Chair
SAMFRAC

**** Due July 5, 1994****

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-330

From: Southeast Area Military Facility Reuse Alliance of Cities

Page : 16127
Column : 2
Paragraph : §91.3; (a) through (j)

Recommended Changes:

Job Creation

Part 91 of the rule addresses "Revitalizing Base Closure Communities-Base Closure Community Assistance." Section 91.3 is a list of definitions. We believe that a definition of "job creation" should be included in this section. We understand that an attempt was made to include such a definition in the Interim Final Rule, but this attempt was dropped when suitable language could not be drafted. Since this issue is central to real--rather than sham--job creation, we provide the following views:

The proposed rule does not take into consideration the implication of creating one job at the expense of another, or producing economic growth in one sector of the economy or jurisdiction while retarding growth elsewhere. The rule should provide that growth will be measured within an affected area in a fair and equitable manner so as not to benefit one jurisdiction over another. Failure to consider the regional implications of reuse planning can produce statistics which are misleading.

A realistic definition of job creation must include the realization that jobs created are "net jobs created" and not merely the jobs included in a proposed redevelopment effort. If the standard is not "net jobs created," then essentially any reuse could qualify, even a reuse that would marginally increase "on base" employment while devastating the total jobs in the "off base" regional economy. This would be particularly true in the case of a high-volume, discount shopping center development that might displace two to three retail jobs for a single "gross" job created. The Department of Defense should embrace a "net jobs created" definition and recognize that taking a myopic view of job creation (i.e., rapid and incidental job creation, such as the construction jobs required to build facilities) is in reality an intellectually dishonest policy.

We believe that defining "net jobs created" can be operationalized by either of the following methods:

1. **Metropolitan Planning Authority**---Since reuse of military bases should be led by a community-based, consensus-building authority, determining whether a particular reuse proposal is really a job creator should be the responsibility of the regional or metropolitan planning authority which covers the region impacted by the base closure and reuse. The Office of the Secretary of Defense should not be burdened by making a final determination of the job creating potential of reuse proposals; the Secretary should only insure that the taxpayers' interests are being looked after. Reliance on the region's planning authority is an efficient means to this end.
2. **Performance Standard**---Less than fair market conveyance could be conditioned on actual increases in employment within the standard metropolitan statistical area containing the redeveloped military base. The net increase in total full-time employment from reuse would be determined (after the fact) by subtracting the sum of base reuse employers' total full-time employment from the total full-time employment of such entities within the standard metropolitan statistical area encompassing the closed base during a 12-month base year. In cases where a military base is proximate to two or more SMSAs, job creation would be measured in the combined SMSAs.

To determine if the reuse employers' "full-time employment of employees" in the 12-month period is equal to or greater than the full-time employment of employees in the base year, defined as the reuse employers' total full-time employment in the calendar year preceding the year of the base closure, the total full-time employment of employees employed by the reuse employers in the 12-month period should be equal to or exceed the total full-time employment of employees employed by the reuse employer in the standard metropolitan statistical area in the base year. The "total full-time employment of employees" should be equal to the sum of both of the following:

- The total number of hours worked by full-time employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.
- The total number of full months worked for the reuse employers by full-time employees who are salaried employees divided by 12.

In the case of a reuse employer with a base year of less than 12 full months in the standard metropolitan statistical area, for purposes of determining the net increase in full-time employment of employees, the total full-time employment of employees in

the 12-month period shall be multiplied by a fraction, the numerator of which is the number of full months in the taxpayer's base year and the denominator of which is 12.

Should the actual reuse result in a net decline of jobs, the military department should accelerate its recovery of the fair market "write down" of the transferred property.

**** Due July 5, 1994****

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-330

From: Southeast Area Military Facility Reuse Alliance of Cities

Page : 16127
Column : 3
Paragraph : §91.4; (a), (b), and (c)

Recommended Changes:

Public Benefit Conveyance

The rule, as proposed, may not give enough importance to public benefit conveyances. While the Department of Defense recognizes that the new rule does not supersede existing federal property disposition rules concerning public benefit transfers, the military services generally are of the opinion that public benefit conveyances are not job creators and, therefore, are of less value in the disposition process. Although the proposed rule does mention the use of public benefit conveyance, the rule emphasizes dispositions that will create some revenue for the Department of Defense (when there is a strong market for the property) or a less-than-fair-market conveyance (when there is no market for the property). From a purely public policy perspective, failure to transfer an existing public asset to another government agency, whether federal, state or local, is a questionable stewardship of the taxpayers' trust. The Department of Defense must recognize that the reuse impacts of former military bases are rarely confined to the boundaries of a single jurisdiction.

Robert G. Wagner, Co-Chair, Southeast Area Military Facility Reuse Alliance of Cities
5050 Clark Avenue
Lakewood, CA 90712
310 866-9771, extension 2120

**** Due July 5, 1994****

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-330

From: Southeast Area Military Facility Reuse Alliance of Cities

Page : 16128
Column : 1
Paragraph : §91.7; (a)(3)

Recommended Changes:

Consensus Building

In spite of repeated inputs to the Department of Defense that consensus building is a major problem area, nowhere in the proposed rule is the issue of local consensus building addressed. The Secretary and the military departments should promote local community consensus building, including consensus building involving adjacent jurisdictions that are impacted both by the base closure and the proposed reuse. An inclusive process should be explicitly required, and the Department of Defense should take specific actions following the announcement of base closure to educate all affected jurisdictions on the process that will be followed in converting the base to civilian uses, and to encourage development of local consensus on reuse plans. Limiting reuse planning to only communities with zoning authority is a far-too-narrow perspective, especially in light of the judicial recourse available to parties impacted by federal decision making under NEPA.

This process should be required, either prospectively and retroactively, in any reuse where a Record of Decision has not yet been entered.

Robert G. Wagner, Co-Chair, Southeast Area Military Facility Reuse Alliance of Cities
5050 Clark Avenue
Lakewood, CA 90712
310 866-9771, extension 2120

**** Due July 5, 1994****

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-330

From: Southeast Area Military Facility Reuse Alliance of Cities

Page : 16128
Column : 1
Paragraph : §91.7; (c)

Recommended Changes:

Environmental Survey

Section 91.7c of the regulations encourages the preparation of a plan within one year which identifies the use of the parcels of land on the base. But, without a baseline environmental survey, such an effort may well be a waste of time. Without analysis of the substantive environmental issues which will affect remediation, project timing, availability, and reuse limitations, it will be difficult to encourage commitments of private resources for the redevelopment. The proposed rule should be changed to provide that:

1. The base realignment and closure cleanup team shall meet with the Redevelopment Authority or other agency within 60 days of a closure decision and provide, at that time, all information concerning environmental contamination, historical preservation, endangered or threatened species, and wetlands issues at the base.
2. The base realignment and closure cleanup team shall meet with the Redevelopment Authority or other agency every 90 days thereafter to share information concerning the status of the EIS and any additional environmental information which has subsequently come to light.
3. A baseline environmental survey, meeting nationally-accepted standards for lending institutions, shall be completed within 180 days of the final closure decision. These documents will be provided to the Redevelopment Authority or local agency for its use in preparing a local redevelopment plan.
4. Where a Redevelopment Authority or other agency as specified in the statute exists, it will be made a cooperating agency by the Department of Defense in the NEPA process.

Interim Final Rule - 32 CFR Parts 90 and 91
[RINs 0790-AF61 and 0790-AF62]
Revitalizing Base Closure
Communications and Community Assistance
June 24, 1994
Page 2

5. If no Redevelopment Authority exists, cooperating agency status in the NEPA process will be extended to any community in whose jurisdiction the installation is wholly or partially located.
6. If no Redevelopment Authority exists, cooperating agency status in the NEPA process will be extended to any community that is economically impacted by the closure or proposed reuses.

Robert G. Wagner, Co-Chair, Southeast Area Military Facility Reuse Alliance of Cities
5050 Clark Avenue
Lakewood, CA 90712
310 866-9771, extension 2120

**** Due July 5, 1994****

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-330

From: Southeast Area Military Facility Reuse Alliance of Cities

Page : 16130
Column : 2
Paragraph : §91.7; (c)

Recommended Changes:

Reliance on Local Zoning Authority

The proposed rule has the inherent potential to pit one jurisdiction against another. It has been claimed that local zoning authority determines reuse. But, it is equally important to note that local zoning is not the "be all and end all" when determining reuse issues. While it is correct that a local jurisdiction with zoning authority, in whose sole jurisdiction is a former base, may be able to control the reuse of that base, the fact of the matter is that employees travel across local jurisdictional boundaries, especially in highly urbanized areas. Economic gains in one community may result in losses in adjacent communities. This is especially the case where municipal sales tax is distributed on a point-of-origin basis. In protracted legal or political battles over the transfer of employment or tax revenue, the jurisdictions--as well as the Department of Defense--will be the losers. We believe the President's Five Point Plan is not meant to pit community against community and that the Department of Defense should not foster a condition of entrenched conflict between communities.

Robert G. Wagner, Co-Chair, Southeast Area Military Facility Reuse Alliance of Cities
5050 Clark Avenue
Lakewood, CA 90712
310 866-9771, extension 2120



1034 6/30

City of Millington

Base Reuse Committee
N-201-B Bougainville Street
Millington, Tennessee 38053
(901) 873-2400

Mayor
GEORGE HARVELL, JR.

City Clerk
CAROLYN MADILL

Board of Alderman
F. A. DUNN
R. C. HODGES
J. A. HUTCHESON
H. D. MONCIER
D. H. WAGES
K. T. WHITLOCK
L. M. WILSON

Base Reuse Committee
GEORGE HARVELL, JR.
Chairman
Mayor, Millington
DAVID COOLEY
Memphis Area
Chamber of Commerce

JOE EMISON
U.S. Navy, Retired
CRAIG ESRAEL
Navy Memphis Credit Union

W. S. HOWARD
Millington Telephone Co.

JEFF HUFFMAN
Tipton County Executive

JAMES KNIPPLE
Millington Finance Director

NED McWHERTER
Governor
State of Tennessee

WILLIAM N. MORRIS, JR.
Mayor, Shelby County

GINNY MUSIC
Millington Area
Chamber of Commerce

FRANK RYBURN
Millington Airport Authority

THOMAS SEALE
Millington Industrial
Development Board

JOHN TANNER
Congressman, 8th District

DENNIS WAGES
Alderman, Millington

T. LAMAR WILLIS
CO, NAS Memphis
Executive Director
PHIL WHITTENBERG

14 June 1994

Assistant Secretary of Defense (Economic Study)
The Pentagon, Room 3D814
Washington, DC 20301-3300

Re: Interim Rule Comments

Dear Sir:

The Millington Base Reuse Committee submits the attached comments with regard to the Federal Register, Vol. 59, No. 66, Wednesday, April 6, 1994, concerning DoD policies and procedures implementing the National defense Authorization Act for Fiscal Year 1994. During its June 8, 1994, meeting, the Millington Base Reuse Committee reviewed and approved the comments as being of vital interest to the City of Millington and the surrounding communities, which will be adversely impacted by the realignment of Naval Air Station, Memphis.

The Committee asks that a careful study of the merits of these comments be made and that they be incorporated into the final regulation.

Sincerely,

Phillip L. Whittenberg
Executive Director

Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY 94

Forward comments to: **Office of Assistant Secretary of Defense for Economic Security**
3D814, The Pentagon
Washington, DC 20301-3300

From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)
Page 16127
Column 3
Paragraph New

Recommended Changes:

Propose a definition for " any substantial part of each closing installation" found on Page 16130 of the April 6, 1994 Federal Register, Vol. 59, No. 66, in Paragraph d(3) of the third column:

"() *Substantial part.* A 'substantial part' of a closing installation shall be interpreted to be seventy-five percent or more of the acreage of the closing installation and shall include contiguous parcels or blocks of land and facilities. Such blocks of land will not be considered appropriate if they isolate the remaining parcels or render them economically or physically undevelopable."

Why:

The sale of prime parcels to private interests could leave the local redevelopment authority with difficult or impossible to develop remnants of the installation. These remnants could become liabilities for both DoD and the local community. To safeguard against this, any private purchaser should be required to take all or substantially all (at least 75%) of the facility and should not be allowed to create a developmental hardship on the remaining parcels.

Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
Phone: (901) 873-2400

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act for FY 94

Forward comments to: **Office of Assistant Secretary of Defense for Economic Security**
3D814, The Pentagon
Washington, DC 20301-3300

From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page 16127

Column 3

Paragraph (h)

Recommended Changes:

Substitute the following definition for (h) *Rural*:

(h) *Rural*. An area outside a Metropolitan Statistical Area (MSA) or, any community within a MSA with a civilian population less than 25,000, provided one of the following criteria is met:

- (1) Community boundaries are not contiguous with another metropolitan status city.**
- (2) Community will lose at least 15 percent of its population because of the realignment or closure.**
- (3) Fifteen percent or more of all families fall below the poverty level.**

Why:

Base closure communities within Metropolitan Statistical Areas may be well removed from the central city or its immediate suburbs, and in reality may experience substantial adverse impacts similar to and equally as severe as any rural area. This can be especially true were the community is small and the realignment will remove a significant percentage of the population of the community, or where the poverty level of the community is already high.

Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
Phone: (901) 873-2400

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act for FY 94

Forward comments to: **Office of Assistant Secretary of Defense for Economic Security**
3D814, The Pentagon
Washington, DC 20301-3300

From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page 16130

Column 3

Paragraph (d)(3)ii

Recommended Changes:

Propose adding criteria for analyzing the reasonableness of a development proposal to this paragraph where it continues to column 1 of page 16131 by substituting the following for the sentence beginning on line one of this column:

"If the Military Department decides that an expression of interest received demonstrates the existence of a ready market, the prospect of job creation, satisfies the requirement that all or substantially all of the closing installation is included, includes a development timetable acceptable to the local redevelopment authority, and offers proceeds consistent with the range of estimated fair market value, it may decide to offer the property for sale...."

Why:

The purpose of the additional criteria is to ensure that the development proposal is not speculative in nature and will actually result in the rapid creation of jobs.

Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
Phone: (901) 873-2400

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act for FY 94

Forward comments to: **Office of Assistant Secretary of Defense for Economic Security**
3D814, The Pentagon
Washington, DC 20301-3300

From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page 16132
Column 1
Paragraph (e)(6)

Recommended Changes:

Propose the inclusion of a recoupment exception for communities that originally transferred the property to the Department of Defense for a nominal fee; i.e. for one dollar after condemning the property for this purpose. Recommend changing the first sentences of this paragraph to read:

"An economic development conveyance may be made without consideration and without recoupment in communities where the property was originally made available to Department of Defense by a local unit of government for a nominal fee or if the installation is located in a rural area. Installations located in rural areas are of particular concern and such a conveyance may be made when the base closure will have a substantial adverse impact on the economy of the local community and on the prospect of its economic recovery from the closure. To determine whether a rural community..."

Why:

There may be cases where local communities/governments, for patriotic reasons in time of national crises or perceived crises, have taken it upon themselves to take property under eminent domain powers and transfer it to the military or Department of Defense for a nominal fee or no fee. In addition to the initial service to the military, many of these communities have continued over the years to provide infrastructure improvements such as roads, sewers, overpasses, etc. Now that DoD no longer needs the installation, the communities should not be expected to pay a recoupment.

Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
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Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY 94

Forward comments to: **Office of Assistant Secretary of Defense for Economic Security**
3D814, The Pentagon
Washington, DC 20301-3300

From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page 16134

Column 2

Paragraph h(7)

Recommended Changes:

Substitute the following section:

"(7) In addition to the exemptions in paragraph h(5) of this section, the Military Department or Defense Agency is authorized to substitute an item similar to one requested by the redevelopment authority **if the following conditions exist:**

(i) **The personal equipment to be retained by the redevelopment authority is unique because of specific, technological improvements (does not include models that are simply newer or have less wear and tear on them) and these improvements are essential to the military mission.**

(ii) **The personal equipment to be retained by the redevelopment authority is not being transferred under a public benefit conveyance, i.e., airport, recreation, health, etc.**

The substitute items may be drawn from another installation or from the Defense Reutilization and Marketing Service, **but must be serviceable for the intended purpose of the redevelopment authority.**" It is the...

Why:

The redevelopment authorities are faced with development challenges in markets that have been proven by the screening process to be difficult. In order to be successful, they need every advantage they can get. Unlimited substitution of personal property could leave them with unserviceable, obsolete equipment and could also result in lost equipment. The second condition speaks to public benefit transfers and is justified in that the equipment will remain in the service of the public. Public benefit transfers are designed to benefit a broad segment of the public and occur under federal sponsorship, i.e., Department of Interior, Federal Aviation Administration, etc.

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N-201 Bougainville
Millington, TN 38053
Phone: (901) 873-2400

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

1035 7/1

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Base Transition Coordinator, Griffiss AFB, Rome NY
(Activity/Location/Community/Installation/Group)

Page 16124
Column 3
Paragraph 4

Recommended Changes: The sentence that begins "Expressions of interest"... and ends with "will not cause a delay in the disposal process." seems to be extremely assuming since everything we do seems to delay one process or another. If this could be further explained as to who can halt this process when it becomes a cause for delay and how does this process stop when it causes a delay.

Why: Save confrontation.

Name: Angus M. McKinnon
Address: 325 Brooks Rd., Ste 204
Griffiss AFB, NY. 13441

Phone: 315 330-2206
DSN 587-2206

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Base Transition Coordinator, Griffiss AFB, Rome NY
(Activity/Location/Community/Installation/Group)

Page _____

Column _____

Paragraph _____

~~Recommended Changes:~~ Addition: Sec 2907 of Title XXIX, 1994, discusses authority to contract for certain services during the closure process and uses a time of no earlier than 180 days prior to closure for contracting services. This area is of interest to departing Military units since it can aid acceleration of the personnel departures and simplify the closure process. However agencies such as AFBCA believe 60 days prior to closure should be enough to initiate caretaker arrangements. Expansion of this section of Title XXIX in the final rules/regulations will better serve the Military and LRA.

Why:

Name: Angus M. McKinnon
Address: 325 Brooks Rd., Ste 204
Griffiss AFB, NY. 13441

Phone: 315 330-2206
DSN 587-2206

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From: Base Transition Coordinator, Griffiss AFB, Rome NY
(Activity/Location/Community/Installation/Group)

Page 16132

Column 2

Paragraph (f) (1)

Recommended Changes: In this paragraph the term generally is used without explanation: ie, generally share in future profits and generally favor the LRA. This immediately draws the question-- under what circumstances is this not true. Please expand on the use of the term generally as used here.

Why:

Name: Angus M. McKinnon
Address: 325 Brooks Rd., Ste 204
Griffiss AFB, NY. 13441

Phone: 315 330-2206
DSN 587-2206

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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From: Base Transition Coordinator, Griffiss AFB, Rome NY
(Activity/Location/Community/Installation/Group)

Page 16129

Column 3

Paragraph 91.7 (b) (7)

Recommended Changes: If within 1 year a community expresses interest to incorporate the remainder of the property into a redevelopment plan, how long do they have to show progress or does this expression of interest have no bounds?

Why: There seems to be no limits to this area, no reversion to surplus or excess status if the redevelopment plan is a no value added proposition.

Name: Angus M. McKinnon
Address: 325 Brooks Rd., Ste 204
Griffiss AFB, NY. 13441

Phone: 315 330-2206
DSN 587-2206

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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From: Base Transition Coordinator, Griffiss AFB, Rome NY
(Activity/Location/Community/Installation/Group)

Page 16128

Column 2 & 3

Paragraph 91.7 (a) (4) & (a) (7)

Recommended Changes: In requests for delays to surplus declarations, does approval of such a request delay the entire screening process beyond the "Surplus to Federal Government" step of appendix A to Part 91 or can the McKinney screening, etc. continue knowing a Federal Agency may make a declaration that won't be known until the postponed timeframe is completed.

Why: Communities should know the consequences, if any, for delaying the Surplus declaration.

Name: Angus M. McKinnon
Address: 325 Brooks Rd., Ste 204
Griffiss AFB, NY. 13441

Phone: 315 330-2206
DSN 587-2206

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From: Base Transition Coordinator, Griffiss AFB, Rome NY
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Page 16125
Column 1
Paragraph 5

Recommended Changes: Attach a sample of what constitutes a suitable simple written request containing the mentioned 4 basic elements. Refer to here and in 91.7 (e) (5) (I-IV) on page 16132 column 1.

Why: Standardization saves questions.

Name: Angus M. McKinnon
Address: 325 Brooks Rd., Ste 204
Griffiss AFB, NY. 13441

Phone: 315 330-2206
DSN 587-2206

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Forward comments to: Office of Assistant Secretary of Defense for Economic Security
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Page 16124
Column 3
Paragraph 4

Recommended Changes: This area of the reg uses the term high value, but does not define this open ended term. Any guidance in the reg to limit or bound high value may save later arbitrations. Perhaps just limiting high value to those properties with an appraised value that exceeds the fair market value could be called high value. Perhaps the value is not something that we can place a dollar market amount on at this time but since there is no definition of this at this time in the regs it leaves this as a high potential area of confrontation.

Why: Save adversarial situations.

Name: Angus M. McKinnon
Address: 325 Brooks Rd., Ste 204
Griffiss AFB, NY. 13441

Phone: 315 330-2206
DSN 587-2206

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

1036
7/1

Southern California Edison Company

P. O. BOX 800

2244 WALNUT GROVE AVENUE

ROSEMEAD, CALIFORNIA 91770

J. MICHAEL MENDEZ
VICE PRESIDENT

TELEPHONE
818-302-2266

June 29, 1994

VIA FEDERAL EXPRESS

Office of Assistant Secretary of Defense for Economic Security
Room 3D814, The Pentagon
Washington, D. C. 20301-3300

Re: Interim Rule--Military Base Closures and
Realignments

Ladies and Gentlemen:

Effective April 6, 1994, the Department of Defense (the "DOD") issued an interim final rule (the "Rule"), 59 Fed. Reg. 16,123 (1994) (to be codified at 32 C.F.R. Parts 90, 91), implementing Title XXIX of the National Defense Authorization Act for Fiscal Year 1994. The Rule is open for public comment until July 5, 1994. Southern California Edison Company, a public utility company primarily engaged in the business of supplying electric energy in central and southern California, hereby submits the following comments.

1. General Comment.

The Rule does not address the disposal of utility systems and underlying real property rights on closed or realigned bases.

The Rule is designed to speed the economic recovery of affected communities through effective reuse of valuable base assets. To accomplish this goal, procedures are outlined to dispose of base assets more quickly, more effectively, and in ways based on local market conditions and locally developed reuse plans. These procedures allow transfers of base properties without initial cost to redevelopment authorities ("RAs") when a ready

June 29, 1994

market for public or private development cannot be relied upon as the preferable mechanism to spur economic redevelopment and the creation of new jobs. However, the procedure to establish a ready market provides for Military Departments to solicit expressions of interest for the **entire** or a **substantial** portion of each base. Like mixing apples and oranges, the utility system is incorrectly "lumped" with the other base properties.

Utilities represent integrated systems with unique characteristics. Utility systems are often owned and operated by the companies which provide utility service (the "Utility Companies") to the underlying real property owners or occupants. Most homeowners and business owners have neither the desire nor the ability to own, operate or maintain the utility system serving their properties. Similarly, Utility Companies do not have the desire, and it would be nonsensical, to buy buildings in order to acquire the system which serves them. The special nature of the utility infrastructure requires separate treatment under the Rule. By requiring that a potential offeror must express an interest in all or a substantial portion of a base, the Rule effectively prohibits Utility Companies from participating in the base disposal process--which may not be in the best interests of the local citizens or the federal taxpayers.

Indeed, each property owner or occupant must have utility services. The quality of the utility system and its operating reliability are factors considered by investors in business enterprises that provide rapid job creation. The Utility Companies have attributes which often make them the best candidates for the most effective use of the base system including:

- reliability of the system and service (both during normal operations and in disasters);
- years of expertise in managing utility systems resulting in a demonstrated high quality management and level of service;
- an existing inventory of specialized materials and equipment;
- the achievement of significant economic efficiencies for customers (e.g., larger purchasing power and centralized customer service);
- a sufficient, experienced staff; and,
- the availability of resources to take advantage of technological improvements and to optimize performance.

June 29, 1994

Additionally, if Utility Companies purchase the system for fair market value, the federal taxpayers will realize an immediate and assured return on property for which they originally paid as opposed to a delayed or no return when property is conveyed as an economic development conveyance. Alternatively, any net profits realized on sale of such systems could be shared on a prescribed pro rata basis with the RAs, allowing the community to benefit from such income stream at an earlier date than provided for economic development conveyances. Thus, while the primary result of the Rule is to empower local communities, this may not be in everyone's best interest with regard to utility systems.

The DOD recognizes that the manner of property disposal can have a dramatic impact on a local community's economic recovery. Enabling Utility Companies to participate in the initial screening process with the RAs should not slow the disposal process, and in fact, Utility Companies should have the ability to support and participate in a quicker disposal process. Also, by encouraging potential offerors to work with the RAs so that their goals are compatible with the local redevelopment plan, the Rule helps ensure disposal of the system is compatible with the local redevelopment plan.

However, disposition of the utility system encompasses many issues in addition to the obvious ones of sale and transfer. To assure a smooth transition to reuse of all other base assets, the utility infrastructure must be "dealt with" in an orderly, organized manner early in the process. Separate treatment of the utility systems as an integrated asset and early involvement of the Utility Companies is critical to further the goal of rapid redevelopment through the most effective reuse of valuable base assets. During the closure process and prior to any disposition of the system, utility services will continue to be required. Early and ongoing consultation and negotiation with the Utility Companies by the Military Departments should be encouraged and permitted to assure that reliable, high quality utility services are available at all times throughout the closure and redevelopment process. The utility customers must not be caught in the middle or caught short with respect to needed utility services to assure the success of the redevelopment goals.

2. Specific Comments.

a. Real Property or Personal Property.

(i) The System.

The Rule does not classify utility systems as real or personal property.

Section 91.7(h)(6) of the Rule provides for the disposal of base personal property. The Rule does not lend itself to treatment of utility systems as personal property. The disposition of personal property is determined by how the underlying real property is transferred. The methodology assumes that the real property is the true asset of value, and that the personal property just enhances the use of that real property and therefore follows the related real property. This is not the case with utility systems. Although parts of a utility system may be considered personal property (e.g., anchors, transformers, wires, vaults, poles), the system typically can include fixtures (e.g., substations) and should include easements or fee interests in the underlying real property. The system and underlying real property rights go hand-in-hand, but the system is really where the value lies for Utility Companies; the real property rights are simply necessary to assure access and use of that asset.

Second, the Rule favors RAs in personal property disposition. If utility systems are treated as personal property, the Utility Companies currently would not be involved in the disposal process. As discussed in Paragraph 1 above, this would not be desirable or appropriate. For these reasons, all components of utility systems necessarily must be classified as real property.

(ii) The Underlying Real Property.

The Rule does not provide for the transfer of the companion real property rights.

The Rule should enable Military Departments to grant easements and sell fee interests in the underlying base real property as necessary or appropriate to allow the use and enjoyment of transferred utility systems. Utility Companies investing in a system will require the necessary

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underlying real property rights to allow continued placement of the system and to assure access to the system.

b. Appraisals.

Costs of upgrading utility systems to comply with state and local requirements are not included in the appraisal process.

Section 91.7(d)(2) of the Rule requires Military Departments to complete an appraisal or other estimate of the fair market value of properties with the potential for rapid job creation. In addition to the factors currently requiring consideration to determine a property's value, the appraisal should arrive at an estimated net market value by taking into account the estimated costs to bring a property up to applicable state and local standards or commercial standards. (For example, state law may contain more stringent, and therefore costly, environmental remediation requirements as opposed to federal law. State rules applicable to certain Utility Companies may require the upgrading of utility systems.) Failure to account for such additional costs establishes an artificially high baseline. These costs represent additional funds which the private sector must expend to operate the property and which should reduce the amount of any purchase offer. Recognizing that Military Departments may not be familiar with state and local standards, the Rule should allow consultation with the Utility Companies on appraisal assumptions and guidelines for utility systems, as is the case with appraisals of properties to be transferred by economic development conveyances to RAs. The Rule should also provide the flexibility to revise the appraisal if the expressions of interest indicate that the estimated market value may not be accurate.

c. Funding.

Federal funding is not provided to upgrade utility systems to comply with state and local standards.

In the event the estimated costs to upgrade utility systems to comply with state and local standards yield a negative market value, the Rule should provide a funding mechanism to upgrade such systems. The other existing real properties on the bases must have utilities to operate, yet a negative market value will create a disincentive for acquisition by RAs and Utility Companies. Just as funds are expended by the government to

Office of Assistant Secretary of Defense for Economic Security

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remediate base properties, funds should be available to upgrade utility systems.

If you have any comments or questions with regard to the above points, please feel free to contact Ms. Dina Lane at 2244 Walnut Grove Avenue, Rosemead, California 91770, or by phone at (818) 302-3196.

Respectfully submitted,


J. Michael Mendez

PRW:prw:LW941730.016

Office of Assistant Secretary of Defense for Economic Security

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June 29, 1994

bcc: W. L. Bryan
R. O. Rector
C. V. Stoner
D. Lane
B. A. Gaylord
P. W. R. White



325 Brooks Road, Suite 210
Griffiss Air Force Base, NY 13441-4501
Phone (315) 338-0393
Fax (315) 338-5694

Helen Forebeck Executive Director
Steven J. DiMeo

C TO

1037

7/1

June 26, 1994

Office of Assistant Secretary of Defense for
Economic Security
3300 Defense Pentagon
Room 3D814
Washington, D.C. 20301-3300

Re: Comments on Interim DoD Final Rules on Revitalizing Base Closure Communities
and Community Assistance

Dear Sir:

Attached are comments from the Griffiss Redevelopment Planning Council (GRPC) on the Interim DoD Final Rules on Revitalizing Base Closure Communities and Community Assistance that was published in the April 6, 1994 Federal Register. The GRPC was very pleased that the Pryor amendment was approved as part of the Defense Authorization Act for Fiscal Year 1994. The President, Congress, and the Department of Defense are to be commended for addressing -- through the enactment of the Pryor amendment -- some of the problems that the 1988 and 1991 base closure communities experienced.

Unfortunately, the process of promulgating regulations from the language in the Defense Authorization Act has resulted in interim regulations that do not live up to what was promised to base closure and realignment officials by representatives of the Clinton Administration, DoD and Congressional staff. In several instances the language in the interim regulations are confusing, ambiguous, contradictory and contrary to what was intended by the Pryor Amendment. Upon reviewing the interim regulations and after attending the DoD Chicago Outreach Session, the GRPC believes that it is necessary for DoD officials to address concerns in the following areas:

(1.) Define Fair Market Value based on the as is, where is condition of the property and not on the proposed reuse of the property (for Economic Development Conveyances), and a broad yet undefined definition for properties that are to be marketed for sale under the Jobs Centered Property Disposal provisions.

(2.) Eliminate the Jobs Centered Property Disposal provisions in its entirety. This provision essentially makes the military departments economic developers when that is the primary role of the reuse organization. The reuse organization is responsible for development of the reuse strategy, securing zoning and other local approvals, financing, and marketing the real property based on a targeted marketing strategy. This provision is unnecessary and does not facilitate economic development. Instead, it frustrates the wishes of the reuse organization and serves only as another bureaucratic impediment in a process that is still bureaucratic and not easily understood.

(3.) Amend the Economic Development Conveyance provisions to base fair market value on the as is, where is condition of the property; provide a definition for operating costs to include all capital, operating and carrying charges on all of the real property owned by the reuse organization; and, operating costs should be based on the cumulative costs for all of the property owned by the local reuse organization and not on a parcel by parcel basis as presumed in the interim regulations. Also, there should be some flexibility to enable the reuse organization and the military department to re-negotiate the provision that currently requires a 60-40 split on net profits over a 15 year term. There should be some flexibility to modify these terms as may be necessary and as determined on a case by case basis.

(4.) The definition of Rural area should also include those closing or realigned military installations located in a municipality that is part of an MSA, but whose population is under 50,000.

(5.) Revise the Personal Property regulations to address an apparent loophole that does not require military departments to provide the reuse organization with an inventory for the personal property located within a "DoD Retained Areas; better define the timeframe for reviewing and approving federal agency requests for personal property; establish an arbitration or review procedure to review or reconsider decisions made by the Base Commander and/or Military Department to transfer and/or relocate personal property to another military installation; tighten the provisions that allow the military department to substitute personal property; and eliminate the requirement that the reuse organization may be required to acquire personal property.

(6.) Amend the Minimum Level of Maintenance and Repair regulations to ensure that there is adequate care and custody of the base property after closure and/or realignment.

These areas need to be revised to make it possible for base closure communities to proceed with plans for the reuse and redevelopment of closing or realigned military installations. In our community, the largest "disemployer" is the federal government. More than 5,000 jobs once Griffiss AFB is realigned next year.

Our community is also hurt by the cumulative economic impact caused by cutbacks in area defense manufacturing employers such as Martin Marietta (formerly GE Aerospace), Lucas Aerospace, Utica Corporation and other similar companies. Together this

Lucas Aerospace, Utica Corporation and other similar companies. Together this downsizing in defense sector employment is the cause of the major restructuring of the regional economy. We had hoped that the federal government would be far more sensitive to the need of working closely and cooperatively with local communities on dealing with this economic transition.

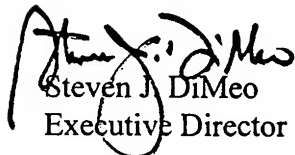
The President's Five Point Program and Title XXIX lifted our spirits and provided hope that the federal government would streamline and simplify and improve the process so that military assets that are being made surplus could be transferred quickly to the local reuse organization in support of that community's local reuse strategy. The recently published interim rules and regulations do not fulfill this objective. The weaknesses and flaws in the interim regulations overshadows the areas in the interim regulations where improvements have been made.

In the final analysis the success of military base redevelopment will be determined by local communities. The role of the federal government should be to "empower" local communities. Local reuse organizations should be given the ability and the opportunity to develop a reuse strategy and assume control on implementing its economic development strategy to replace the jobs and economic development activity that will be lost once the base is closed or realigned.

The interim regulations take an opposite approach. Instead, the local reuse organization has to devote considerable time negotiating with the military department and maneuvering through the labyrinth of regulations and red tape when its energy and effort should be focused on economic development.

The GRPC hopes that there will be some serious thought to amending the interim regulations so that the process for redeveloping closed and realigned military installations is improved, and the supremacy of the local reuse organization is recognized. In the meantime, if you have any questions please feel free to contact me.

Sincerely,


Steven J. DiMeo
Executive Director

cc: Ray Meier, County Executive
Joseph Griffo, Mayor City of Rome
Senator Daniel P. Moynihan
Senator Alfonse D'Amato
Congressman Sherwood Boehlert
Amy Mall, NYS Federal Affairs Office
NAID
HR&A, Inc.

**Comments on the
Interim DoD Final Rules on Revitalizing Base Closure
Communities and Community Assistance
By the
Griffiss Redevelopment Planning Council**

(1.) Introduction:

The following represents proposed comments from the Griffiss Redevelopment Planning Council (GRPC) regarding the Interim DoD Final Rules on Revitalizing Base Closure Communities and Community Assistance that were published in the April 6, 1994 Federal Register..

The much awaited interim regulations fall short of what was promised. The interim regulations are complex, full of bureaucratic impediments, contain contradictions and inconsistencies, and do not give sufficient recognition to the state and local governments that will have the responsibility for developing and implementing implement local reuse programs.

The interim regulations need to be revised to fulfill the commitment made by the Clinton Administration and Congress when it embraced the Pryor Amendment to help base closure and realignment communities adjust to the loss of military and civilian employment. The following summarizes several areas in the interim regulations that should be revised so that the process will be improved.

(2.) Fair Market Value:

The regulations make two different descriptions of fair market value. There is a broad definition for property that DoD determines to be "**readily marketable property**". This definition is for those properties that are covered under the jobs centered property disposal section in the interim regulations. The other definition of fair market value is for property that is to be transferred under the new economic development conveyance provisions. Under this definition, the fair market value is based on the "**proposed reuse**" of the property.

Neither definition takes into consideration that these surplus properties are being transferred in an "**as is, where is**" condition without local zoning, in some instances without adequate infrastructure being in place, and in most circumstances these properties require significant improvements to make the property attractive for private sector use. It is recommended that DoD use a single appraisal definition and that it be based on an "**as is**" and "**where is**" basis.

(3.) Jobs Centered Property Disposal Provisions:

At the Chicago outreach session this was by far the most controversial and debated component in the interim regulations. DoD was very defensive about the strong and vocal sentiment from communities that the jobs centered property disposal provisions are likely to put the community in direct conflict with DoD.

DoD attempts to promote the jobs centered property disposal provisions as an economic development incentive to provide a mechanism for quick sales to private

entities that will create jobs. In reality this provision does not fast track the disposition of property for economic development.

If anything, this provisions does just the opposite. It prolongs the disposal process. The jobs centered property disposal language is another layer in an already multi-layered bureaucratic process that delays the ability of the community or its reuse organization to implement its redevelopment program. This provision actually lowers the reuse organization's standing in the federal screening process.

Under this provision the public benefit and economic development conveyance mechanisms can not be accessed until the community and/or reuse organization completes the following: (a.) DoD makes its excess determination; (b.) federal agencies screen real property; (c.) the McKinney Act, process is completed; and, (d.) after DoD advertises for and completes the requirements under the expression of interest regulations through the private sector.

This means that the entity that will exert the greatest amount of control and influence over the redevelopment process, and has to wait longer (at least six months) to take control of surplus property (using the public benefit transfer and/or economic development conveyances) that it needs to implement and market its reuse strategy. Even if there is no expression of interest, the military department (for whatever reason) can decide on its own to retain control of the property and refuse to make it available to the community or reuse organization under the public benefit or economic development conveyance provisions.

Also, this provision unfortunately perpetuates DoD's misguided view that base property is valuable and a source of revenue to pay for BRAC. There are very few

high value properties that are owned by the military services, and a far greater number of military installations that are located in weak and depressed real estate markets. Yet this process will be used for all surplus property regardless of whether there is true value or no value. That is patently unfair and unworkable.

Communities that are being severely impacted by the loss of military and civilian jobs are also being punished by DoD because the federal bureaucracy thinks that it can make money through the sale of the surplus property.

This provision also protects the bureaucracy from criticism that it transferred property to the local reuse organization under the public benefit or economic development conveyance provisions without documenting that they made an attempt -- as feeble as it actually is under the jobs centered property disposal process -- to advertise these properties to the private sector. The regulations should clearly recognize that the primary objective is to help communities promote economic development and that a major way to accomplish that purpose is to allow low cost or no cost transfers under the economic development conveyance provisions. The bureaucracy should not be subjected to criticism because it is proactive and supportive of economic development that is fostered at the grass roots level. In fact, that should be the primary objective of the military departments and DoD.

Further, this section establishes the military departments as the party primarily responsible for identifying properties with potential for rapid job creation potential, not the community or reuse organization. This determination will be done in the absence of the community's reuse strategy, without benefit of a targeted economic development and marketing strategy, without local zoning

approvals, without completion of the Environmental Impact Statement, and without a decision as to who will assume control for the maintenance and operation of certain infrastructure (i.e., roads, underground utilities), and how services will be provided (i.e., public works and public safety).

How can the military departments market property for sale to the private sector without answers to these questions? why would the private sector spend time to analyze sites at a closed or realigned military installation if the property is in a ready market state? It is useless and a waste of valuable time for the military department and DoD to act as an economic developer. That clearly is not the role of the military department and DoD.

The presumption is that because the property exists, there are ready, willing and able buyers. This is a flawed premise and does more to frustrate the wishes of the community and does very little to facilitate economic development. The existence of a market is the product of sound analysis of market strengths and weaknesses, the development of a compelling master plan which identifies how the assets should be redeployed, and implementation of a sound marketing strategy to identify those segments of the private sector that can be drawn into the region and attracted to the closed/realigned military installation.

In addition, communities contend that this provision will result in the base property being cherry picked. DoD claims that the intent of this provision is not to "cherry pick" the base. However, the regulations point out that the military departments will identify those properties with potential for rapid job creation potential. This clearly suggests that the military departments will make some arbitrary determination of which parcels at a military base fit this definition and

will then advertise to the private sector that these properties are available. This in fact denotes that the military department will be cherry picking the base.

The profit sharing mechanism in the regulations provides a fair way for the federal government, in conjunction with local reuse organizations, to share in any upside gain from the sale or lease of surplus real property. The profit sharing formula makes the jobs centered property disposal language totally unnecessary. This provision is in direct conflict with the President's Five Point Program and Title XXIX of the Defense Authorization Act for Fiscal Year 1994. It is recommended that this language should be deleted in its entirety.

(4.) Economic Development Conveyances:

DoD should be commended for the economic development conveyance provisions. This was the most sought after change and has the greatest potential to benefit local reuse organizations in promoting local economic development. The economic development conveyance provisions should be modified, however, to make them work better.

First, the DoD appraisal of fair market value that will be used to arrive at an estimate of the value of surplus property that is to be transferred to the local reuse organization under the economic development conveyance provisions is based on the proposed reuse of the property. it is recommended that the fair market value be based on the as is and where is value as noted in Section #2 above.

Second, the net operating costs that will be credited to the community on a re-sale or lease should be clearly defined in the regulations to include all capital, operating

and carrying charges of the local reuse organization. Also, the net operating costs should be based on the total cumulative costs for all of the property owned by the local reuse organization and not on a parcel by parcel basis as presumed in the interim regulations.

Third, the proposed 60-40 split should be more flexible to allow the federal government to recapture a pro-rata share of its investment beyond 15 years based on negotiations between DoD and the local reuse organization.

(5.) Definition of Rural:

The interim regulations allow base closure/realignment communities in rural areas to be treated differently with respect to the transfer of property at no or little consideration from other base closure/realignment communities. Essentially, the regulations allow base property to be transferred without consideration and therefore are not subject to the recoupment provisions that are set forth in the economic development conveyance language.

This provision should be modified to recognize that the base closure process also includes many smaller communities who have populations with less than 50,000 persons and which do not have strong real estate markets but are nonetheless located in Metropolitan Statistical Areas (MSA).

The definition should be refined to recognize that the economic development and market issues are as important in these areas as in those communities that meet the new rural definition, and that these areas should receive the same consideration and treatment.

It is therefore recommended that the definition for no cost transfers include not only rural communities, but also include as an eligible area those military installations that are predominately situated within any political subdivision of an MSA whose population for that political subdivision is less than 50,000.

The expansion of this definition will enable the City of Rome to qualify for a no cost transfer and not an economic development conveyance provisions since it has a population under 50,000 although it is part of the Oneida and Herkimer County MSA.

(6.) Personal Property:

The interim rules do not provide adequate safeguards and assurances that the personal property at a closed and/or realigned base will remain to support the reuse organization's redevelopment strategy. Some of these issues and concerns are as follows:

(a.) Personal Property in DoD Retained Property for Realigned Bases:

The personal property regulations make a distinction on the development of the inventory listing for closed and realigned bases. At a realigned base, the military department is required to only provide the community with an inventory that is limited to the personal property located on the real property to be disposed of by the military department or DoD. This is an unnecessary provision that creates a potentially harmful loophole at realignment bases. The provision should be deleted in its entirety.

The GRPC already has a complete inventory for all of the base property. However, there is a concern that this language is meant to preclude the community from requesting personal property that is located in facilities that are not being disposed of by the military department.

There are already interpretations being made at Griffiss AFB that the personal property in these facilities is off limits to the community and that the military can dispose of, or relocate this equipment as it sees fit. There is a need to clarify this point to make certain the community's interests are not being hurt by this section of the regulations.

The basis for determining which buildings are being retained is not really related with what personal property is located in these facilities, except in very limited instances. As an example, it is unreasonable for the community to expect that the personal property at Rome Lab will be made available to the community in support of its reuse plan. However, the community can clearly make a case why fire fighting equipment, snow plows, police cars, and other pieces of equipment are needed to support the redevelopment of the base property. The community interprets this provision to mean that the snow plows or fire fighting equipment, for example, are not going to be potentially available to the community as part of its reuse plan, because they may be situated in buildings that are retained, although the reuse of the building may change, and/or the equipment located inside is not needed. If this is the case, then the personal property regulation needs to be changed to reflect this loophole.

Procedurally, it is going to be difficult to monitor where certain equipment is located and whether it will be there once the base is realigned. It is possible that equipment will move within facilities on base before, during and after the inventory is completed.

The community needs to have reasonable assurances that the personal property at a realigned base will be available to support its reuse program regardless of whether such property is located in or on a facility that is being retained by the military. This provision should be deleted in its entirety. It is totally unnecessary since the personal property regulations adequately provides numerous avenues for the military department and DoD to retain personal property at DoD retained property as well as at surplus property. There is no need for a distinction between closed and realigned bases.

(b.) Federal Agency Requests for Personal Property:

The personal property rules allow any federal agency to pick through the equipment before the community can finalize its reuse plan and identify the property that it needs. The guidelines should require that the federal agencies work through the community on this issue and that there be a deadline for handling federal agency requests so that the community can make certain that personal property is available to support the reuse plan. Also the community's (reuse organization) request should take precedence in cases where there are competing requests from the community and a federal agency.

(c.) Establishing An Arbitration Process to Reconsider Base Commander/Military Department Decisions to Transfer and/or Relocate Personal Property:

There is too much discretion left to the base commander and the military department and very little recourse available to the reuse organization on decisions made by the base commander or the military department on the relocation of personal property off base. The community needs to have recourse to challenge decisions that it feels were not made in its best interests.

The community believes that there is an inherent conflict of interest that exists if the base commander is put in the middle of a dispute between the community and the military department. It is unlikely that a base commander will not support a request from the military to locate equipment elsewhere. This is particularly true in cases where the military offers to substitute equipment for existing equipment at a close and/or realigned base that the community does not support. The final judge or arbitrator on all matters relative to decisions affecting the disposition of personal property should be given to the Assistant Secretary for Economic Security. The Assistant Secretary for Economic Security is responsible for oversight of the base closure and redevelopment process. This position is an appropriate arbitrator for resolving areas of conflict.

(d.) Substitutions of Personal Property:

The interim regulations allow the military department to substitute personal property if a request is made to substitute a piece of equipment from a closed or realigned base elsewhere. The substitution of equipment should only be allowed if

the community agrees to the substitution through direct negotiation with the military department.

Also, the military departments should determine before the community completes its reuse plan the items of personal property that based on previous experiences (1988 and 1991 base closure process) the communities have requested to remain as part of the local reuse plan. The military department should prepare such a list and then: (a.) identify which items on that list may be requested to be relocated elsewhere; and, (b.) identify by type, style, condition, and age which items are available to be substituted. This list should be made available to the reuse organization so that the reuse organization knows up front the items of personal property that may be relocated elsewhere and whether there is an acceptable substitute.

The community is placed at a strong disadvantage if it is expected to rely on the good faith and unilateral judgment by the military department on what constitutes similar equipment that is an acceptable substitute for existing equipment that has been requested to be moved elsewhere. The current provisions will place the community and the military departments in an on-going, unnecessary adversarial position.

(e.) Purchase of Personal Property:

During the marketing of the President's Five Point Program there was never any discussion that the community may, in certain instances, have to purchase the personal property from the military department. This is a big disincentive to a community. A local reuse organization needs to secure financial resources to

promote the redevelopment of a closed/realigned military installation. To ask a community to buy personal property takes away from the community's ability to finance improvements and provide necessary O&M support. This provision should be deleted. The reuse organization should receive without consideration that personal property which it identifies in its reuse plan and which is approved by the appropriate military department.

(7.) Minimum Level of Maintenance and Repair to Support Non-military Purposes:

One of the biggest areas of dispute that will likely occur concerns the care and custody of the base property after the closure or realignment date established for the affected military installation. The regulations need stronger language to protect the interests of the community and to make certain that the military department provides the necessary O&M support for the surplus base property.

At a minimum, the military department should be required to maintain the base property for a period of not less than 60 months from the date of closure and/or realignment, or satisfactory completion of the Environmental Impact Statement (EIS) and issuance of the ROD, whichever occurs later. During the first 24 months, the military department will maintain the surplus base property to a level of care that is not in conflict with the base reuse plan and which is agreed to in consultation with the reuse organization.

After 24 months, the level of care and custody shall generally be in accordance with the community's reuse plan so that the community has assurances that key facilities that are identified as having reuse potential are adequately maintained

and protected. However, the level of care and custody may be less than was provided during the initial 24 month period. The overall level of care and custody shall be based on negotiations between the reuse organization and the military department.

The military department should not have the sole discretion to decide the level of care and custody to the surplus DoD property. A mechanism is needed to provide the community with recourse in the event that the military department and the community are unable to agree on a minimum level of maintenance for the surplus property beyond the 24 month period, or any extensions thereof. That mechanism should be based on a review through the Office of Assistant Secretary for Economic Security.

The current regulations have the potential of eliminating or reducing DoD's maintenance commitment as early as one week after the reuse plan is completed, which could be before the closure date or realignment date for the base.

(8.) Conclusion:

Base closure communities were led to believe that the base closure process would be simplified, made more efficient, and that the federal government would move quickly to transfer property to the local reuse organization at little or no consideration, to encourage economic development.

More importantly, several federal officials realized that the policies that shape local economies are largely determined at the local level. The role of the federal

government is and should be to facilitate that process and not impose new regulations that will hinder the ability of local communities to plan for their future.

Regrettably, the interim regulations only partially accomplishes this original objective as stated in the President's Five Point Program. Hopefully, the comment period will cause DoD officials to finally recognize that the interim regulations need to be revised further.

Revised: June 26, 1994

BOARD OF SUPERVISORS OF FAUQUIER COUNTY *Stella*

COURT AND OFFICE BUILDING
40 CULPEPER STREET
WARRENTON, VIRGINIA 22186

(703) 347-8680

June 20, 1994

B To
Helen Ford
12
JUN 28 PM 12:47
OFFICE OF THE
SECRETARY OF DEFENSE

1038
7/1

Mr. Robert E. Bayer
Deputy Assistant Secretary of Defense for Economic Reinvestment
and Base Realignment and Closure
3300 Defense Pentagon
Washington, DC 20301-3300

Re: Concerns Regarding BRAC Interim Final Rule Provisions

Dear Sir:

Vint Hill Farms Station is a 1993 BRAC base located in Fauquier County, Virginia. The closing of this base will result in the loss of approximately 1,150 civilian and 750 military jobs out of a total base of about 19,000 in-County jobs. The civilian jobs at Vint Hill Farms constitute the County's largest employer and have average salaries of \$39,640 per year. The impacts of this closing will be such that economic redevelopment at Vint Hill Farms is one of the County's highest priorities. It is the County's goal to replace the jobs to be lost with new jobs that can use the high technical, managerial and educational skills of the people who are losing their local employment. This type of target marketing for new employers is very competitive and requires good planning and market program implementation. Fauquier County is currently engaged in just such a planning process and has received grants of over \$420,000 from the Office of Economic Adjustment and the Commonwealth of Virginia for the purpose. The County is contributing over \$60,000 for this planning effort.

The County's enthusiasm for this effort was based on the explanations and assurances contained in the President's Five-Part Program and received from the Department of Defense, the Army and our Congressional representatives in public discussions following the announced closing of Vint Hill Farms Station. We were assured that following military, federal agency and homeless claims to Vint Hill Farms property and facilities, Fauquier County would be next in priority to receive the unclaimed property and facilities. The intent was to enable Fauquier County to pursue economic redevelopment for purposes of lessening the impacts of projected job, salary and tax losses within the County.

13289

Fauquier County has been deeply distressed by the provisions in the BRAC Interim Final Rules published on April 6, 1994, which allow the Department of Defense to advertise Vint Hill Farms to determine private sector interest in purchasing all or major portions of the site. The Rules allow the Department to sell the site if an interested purchaser is willing to meet the appraised value price and presents a *reasonable* plan,--as defined by the Department, not Fauquier County--which offers the *prospects* of job creation. The Rules say the Department can sell the property, after notifying the local redevelopment authority, and "encourages" a buyer to work with the local authorities on his plans. This provision has the potential for pulling the rug squarely out from under the local community planning effort and is totally contradictory, in our view, from the announced intents of the President's Five-Part Program. The County simply cannot invest its time, moneys, talents, and related resources to such a nebulous and uncertain process.

This provision is directly counter to the process initially described in 1993. The County opposes it based on certain philosophical and perhaps legal grounds, namely: 1) the local community should direct its own economic redevelopment, not the Department of Defense; 2) a sale by the Department of Defense does not *require* a guarantee of job creation and a time frame, only "prospects" of job creation; accordingly, it is an invitation to real estate speculation for sites in urban or urban fringe areas; 3) the proposed regulations do not *require* that prospective jobs proposed by a purchaser be in accord with the County's intended job profiles or reuse plan; 4) the provision creates the very real potential for conflict between Fauquier County, the Army, the Department of Defense, and the purchaser, where none now currently exists; 5) it will not create jobs faster, since a purchaser must go through the identical reuse permitting steps which a local community would have to follow; 6) it is counter to President Clinton's Five-Part plan and the intentions of the Pryor Amendments; 7) a sale can negate the value of the planning money and efforts expended by OEA, the State and local governments; 8) the speakers at the Regional Outreach meeting at Tysons Corner on April 29, 1994, could not give one example where such a process has worked successfully, but the Army's experience at Fort Meade shows how poorly that process worked on that occasion; and finally, 9) if a sale is proposed and the local community wishes to object, the channels for considering the objection are the same channels which made the decision being opposed--an obviously biased situation.

SUPERVISOR, FIFTH DISTRICT
THOMAS F. RILEY
CHAIRMAN OF THE BOARD OF SUPERVISORS
ORANGE COUNTY HALL OF ADMINISTRATION
10 CIVIC CENTER PLAZA, P. O. BOX 687, SANTA ANA, CALIFORNIA 92702-0687
PHONE: (714) 834-3550 • FAX (714) 834-2670



1039
7/1

June 23, 1994

Joshua Gotbaum
Assistant Secretary of Defense for Economic Security
The Pentagon, Room 3D814
Washington, DC 20301-3300

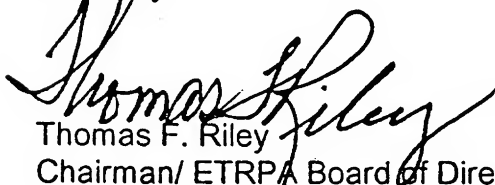
Dear Mr. Gotbaum:

The El Toro Reuse Planning Authority (ETRPA) has reviewed the Interim Rules & Regulations governing the Base Closure Community Assistance Act, and has prepared comments which highlight concerns with the new "Job-Centered Property" screening process and the Stewart B. McKinney Act.

We believe that the Job-Centered Property process will diminish and conflict with local reuse efforts, as this new screening process allows the Department of Defense to sell substantial areas of base property where "ready markets" exist, prior to the completion and adoption of our community reuse plan. Additionally, our comments concerning the McKinney Act focus on increasing the role of local reuse agencies and/or the Secretary of Defense with regard to approving homeless agency requests, to facilitate the development of a balanced community reuse plan. On behalf of the ETRPA Board of Directors, I am forwarding these comments to you for consideration in formulation of the final regulation.

Thank you for providing us with the opportunity to voice our concerns regarding implementation of the Base Closure Community Assistance Act at this formative stage. If you should have any questions, please call Jack Wagner of the County Administrative Office at (714) 834-6758.

Sincerely,

A handwritten signature in cursive script, reading "Thomas F. Riley".

Thomas F. Riley
Chairman/ ETRPA Board of Directors

MG

cc: Members, ETRPA Board of Directors
Executive Management Team

****Due July 5, 1994****

Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: El Toro Reuse Planning Authority
(Activity/Location/Community/Installation/Group)

Page 16124 & 16130

Column 3 2

Paragraph 1 9

Recommended Changes:

It is suggested that the Rules and Regulations be revised to allow the Job-Centered Property Disposal process to occur subsequent to the completion of the community reuse plan.

1) This would provide for public participation opportunities, establishment of community goals and objectives, completion of a competitive market analysis, an evaluation of infrastructure constraints and opportunities, state and federal environmental review, and local zoning/general plan entitlement.

OR

2) Establish a definitive review process whereby the local reuse authority has the discretion to approve or deny the transfer of base property during the Job-Centered Property Disposal Process.

Why:

The Job-Centered Property Disposal process appears to greatly diminish the role of the local redevelopment authority which is responsible for preparing a community based reuse plan.

Although the Interim Rules and Regulations state that the DoD will notify and consult with the local redevelopment authority a definitive process has not been developed to address such issues as public participation, land use compatibility and entitlement, infrastructure requirements, etc.

Name: Chairman Thomas F. Riley
Address: Post Office Box 687
Santa Ana, CA 92702-0687

Phone: (714) 834-3550

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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Page 16124 & 16129

Column 2 1

Paragraph 1 5

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- o Require McKinney Act applications to be jointly prepared by homeless providers and local jurisdiction(s).
 - o Require a nexus based geographic limitation for homeless providers when applying for base property.
 - o Permit local reuse authorities and the DoD to exercise discretion with regard to balancing economic revitalization opportunities with McKinney Act requests for base property.
 - o Require consistency between McKinney Act requests for housing units with local, state and federal housing requirements and policies.
 - o Require the dispersion of McKinney Act housing units and services consistent with HUD's new "Community Partnership Strategy" which supports the "integration of households with diverse income levels." (As stated by HUD, this approach "...is in contrast to the traditional dysfunctional housing projects of the past.")
 - o Require military housing units leased to McKinney Act agencies for homeless services to be rehabilitated in order to meet local landscape and building code requirements.
- Why:

Although the proposed Rules and Regulation address the issue of McKinney Act screening additional discretion and clarification is needed to modify a law which was never intended to deal with base closure so that the law will not impair the development and implementation of a balanced community reuse plan.

Name: Chairman Thomas F. Riley

Address: Post Office Box 687
Santa Ana, CA 92702-0687

Phone: (714) 834-3550

(NOTE: LIMIT TO 1 COMMENT PER PAGE)



County of Orange

MEMO

DATE: June 23, 1994

TO: Supervisor Thomas F. Riley


FROM: County Administrative Officer

SUBJECT: Letter to Department of Defense Forwarding ETRPA Comments on Interim Rules & Regulations Governing the Base Closure Community Assistance Act;
Letter to MCAS El Toro/BRAC Office Regarding Personal Property Disposal

In response to actions approved by the ETRPA Board of Directors at the June 22, 1994 meeting, I have prepared two items of correspondence. The first is a letter of transmittal in compliance with the Board's directive to provide ETRPA comments on the Interim Rules and Regulations governing the Base Closure Community Assistance Act to the Department of Defense. The second is a letter notifying the MCAS El Toro Base Realignment and Closure Office of your Board's decision to not only allow disposal of the personal property identified in their June 10, 1994 letter, but also to delegate to the Reuse Executive Management Team the authority to screen all future requests for personal property disposition.

I have attached the proposed letters for your use. Please have your staff call Melissa Gisler of my staff at 834-5608 when the letters have been signed so that we may expedite delivery.

Thank you.


Ernie Schneider

MG

cc: ETRPA Board of Directors

Attachments

SUPERVISOR, FIFTH DISTRICT

THOMAS F. RILEY

CHAIRMAN OF THE BOARD OF SUPERVISORS

ORANGE COUNTY HALL OF ADMINISTRATION

10 CIVIC CENTER PLAZA, P. O. BOX 687, SANTA ANA, CALIFORNIA 92702-0687

PHONE: (714) 834-3550 • FAX (714) 834-2670



June 23, 1994

Colonel James Ritchie, USMC
Base Realignment and Closure Officer
Marine Corps Air Station El Toro
Santa Ana, CA 92709-5000

Dear Colonel Ritchie:

At their June 22, 1994 meeting, the El Toro Reuse Planning Authority (ETRPA) Board of Directors took official action to allow disposal of the personal property identified in your letter of June 10, 1994. Based on this action, such property may now enter into the disposal process.

In anticipation of frequent requests for disposal of personal property, the Board also delegated to the Reuse Executive Management Team the authority to screen MCAS El Toro personal property for economic redevelopment potential or disposal. Therefore, all future requests for disposition of personal property should be addressed as follows:

Jack Wagner
ETRPA Reuse Executive Management Team
County Administrative Office
P.O. Box 22014
Santa Ana, California 92702-2014

If you should have any questions, please call Mr. Wagner at (714) 834-6758.

Sincerely,

Thomas F. Riley
Chairman/ ETRPA Board of Directors

MG

cc: Members, ETRPA Board of Directors
Executive Management Team

****Due July 5, 1994****

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From: El Toro Reuse Planning Authority
(Activity/Location/Community/Installation/Group)

Page 16124 .. & 16129

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Although the proposed Rules and Regulation address the issue of McKinney Act screening additional discretion and clarification is needed to modify a law which was never intended to deal with base closure so that the law will not impair the development and implementation of a balanced community reuse plan.

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Address: Post Office Box 687
Santa Ana, CA 92702-0687

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Page 16124 & 16130
Column 3 2
Paragraph 1 9

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Address: Post Office Box 687
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Name: Chairman Thomas F. Riley
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Santa Ana, CA 92702-0687

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1022	5	Washington	D.C.	20041-
1022	6	Washington	D.C.	20041-
1022	7	Washington	D.C.	20041-

Assign #1040
9/7/11

Economic Development Conveyances should
be sponsored by Dept of Commerce or
Dept of Labor - not DoD who knows
nothing about Eco Devel & job creation

Fax Transmittal Cover Sheet

1041
7/5

To: - OASD (Economic Security)

From: Lenny Siegel, Pacific Studies Center

Fax Number: 415/961-8918

Date: Fri, Jul 1, 1994 • 10:16 AM

Transmitting (2) pages, including cover sheet.

If there is difficulty with this transmission, please call: 415/961-8918

Pacific Studies Center

222B View Street, Mountain View, CA 94041 USA

415/969-1545; Fax 415/968-1126

TO: Office of the Deputy Assistant Secretary of Defense (Economic Security)
FROM: Lenny Siegel
SUBJECT: Proposed Rule: 32 CFR, Part 91.7(j)
DATE: June 30, 1994

The proposed rule does a reasonable job of implementing what I believe is a risky concept, the transfer of contaminated portions of closing/closed military bases. I would like to suggest a few safeguards to ensure that cleanup is conducted to community satisfaction. Underlying my concern is a recognition that in many cases the "community" interest likely to receive contaminated property is not the same "community" primarily concerned about the environmental or public health consequences of that contamination. I do not believe that the proposed rule, as currently written, provides those safeguards.

- 1) Any proposal to transfer such property should be duly noticed to the affected community, and the public should be offered the opportunity to comment on the proposal both at the conceptual stage and before finalization of the transfer. Otherwise, the public as a whole may be exposed to an avoidable risk without any chance of influencing the outcome.
- 2) Should potential land uses be used in selecting cleanup standards or remedies, that potential land use should be determined in consultation with the community as a whole, and not just the proposed recipient. Otherwise, it is likely that some recipients would propose land uses designed, in part, to minimize their cleanup requirements, even though in the long run the community as a whole would like to consider other uses for the property.
- 3) All of the public participation elements of the Fast-Track Cleanup program, including the functioning of Restoration Advisory Boards, should continue to apply to property transferred under this Section.

Heben

LEGAL AID OF MARIN

30 North San Pedro Road, Suite 245
San Rafael, CA 94903
(415) 492-0230

Senior Legal Services Unit
(415) 492-0230

Fax: (415) 492-0947

Volunteer Legal Services Unit
(415) 492-0230

~~1042~~
7/11

July 7, 1994

VIA FEDERAL EXPRESS

Office of Assistant Secretary of Defense
for Economic Security
The Pentagon Room 3D854
Washington, D.C. 20301-3300

Enclosed is the hard copy of our COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The National Defense Authorization Act
For FY94 (NDAA) 59 Federal Register 15123-16158 (April 6, 1994),
which you confirmed receiving from us via facsimile on July 5,
1994.

Please note that after giving the issue further thought, we
deleted the following comment:

PAGE 16130
COLUMN 2
PARAGRAPH 91.7(d)(ii)
Local redevelopment plan

Yours very truly,



LAUREN P. HALLINAN
Chair, LEGAL SERVICES TASK FORCE ON MILITARY
BASE CLOSURES
Executive Director
LEGAL AID OF MARIN

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act For FY94 (NDAA)
59 Federal Register 15123-16158 (April 6, 1994)

TO: Office of Assistant Secretary of Defense
for Economic Security
The Pentagon Room 3D854
Washington, D.C. 20301-3300

FROM: LEGAL SERVICES TASK FORCE ON MILITARY BASE CLOSURES
WESTERN CENTER ON LAW AND POVERTY
NATIONAL ECONOMIC DEVELOPMENT AND LAW CENTER
NATIONAL HOUSING LAW PROJECT
LEGAL SERVICES OF NORTHERN CALIFORNIA
LEGAL AID SOCIETY OF SAN DIEGO
LEGAL AID OF MARIN

DATE: JULY 5, 1994

The following comments on the Interim rule and proposed regulations implementing Title XXIX of the NDAA FY 1994 are respectfully submitted by the Legal Services Task Force on Military Bases Closures, the Western Center on Law and Poverty, the National Economic Development and Law Center, the National Housing Law Project, Legal Services of Northern California, Legal Services of San Diego and Legal Aid of Marin.

We are charitable, non-profit organizations that provide free civil legal services to low income people. We receive funding from the federal Legal Services Corporation, the California State Bar, and other sources.

The Western Center on Law and Poverty, located in Los Angeles, California, provides statewide support and training for legal services programs in California. It has expertise in all basic areas of poverty law.

The National Economic Development and Law Center and the National Housing Law Project, with offices in Oakland, California and Washington D.C., provide support and training to legal services programs and community-based organizations across the country. Both programs have expertise in their areas of specialization, economic development for low income communities, and housing and homelessness.

Legal Services of Northern California, located in Sacramento and serving 18 counties, provides direct services to low-income clients. Three major military installations are closing in its jurisdiction. Legal Services of San Diego provides direct services to low-income clients, and among other issues, has expertise in

Date: July 5, 1994
Re: Comments on the Interim Rule
Legal Services Task Force on Military Base Closures

housing and redevelopment. Legal Aid of Marin also provides free legal services to homeless and low income persons. Hamilton AFB is in its jurisdiction.

The Legal Services Task Force on Military Base Closures was organized to help legal services programs across the country respond to the needs of their homeless and low income clients who live in the vicinity of closing military bases.

These comments address three main points. To effectively accomplish the goals of Title XXIX, the regulations must clarify:

1) That homeless providers may acquire land for emergency, transitional and permanent housing under McKinney Act screening. See 91. 7(b)(5), discussed below;

2) That redevelopment authorities include fair representation for homeless and low income persons and their advocates; and

3) That economic development conveyances of property for less than fair market value require first source hiring of displaced military, long-term unemployed, homeless, and low income residents of the region; and that criteria are established to determine and measure creation of new jobs.

We view Title XXIX as offering an extraordinary opportunity for communities to improve the lives of their homeless, unemployed and low income residents. Based upon our experience working with our client communities generally, and specifically in regions where military installations are closing, we offer the following comments in the hope that these valuable federal assets will generate shelter for the homeless, economic growth, employment and affordable housing.

For further information or questions, please contact:

LAUREN HALLINAN
LEGAL AID OF MARIN
30 NORTH SAN PEDRO ROAD
SAN RAFAEL, CALIFORNIA 94903
415/492 0230

BEN QUINONES
NATIONAL ECONOMIC DEVELOPMENT & LAW CENTER
2201 BROADWAY, SUITE 815
OAKLAND, CA 94612
510/251 2600

Date: July 5, 1994
Re: Comments on the Interim Rule
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COMMENTS ON THE INTERIM RULE AND PROPOSED REGULATIONS
National Defense Authorization Act For FY94 (NDAA)
59 Federal Register 15123-16158 (April 6, 1994)

PAGE 16124

COLUMN 2

Summary: McKinney Act Screening
Recommended Changes:

The Summary should emphasize and clarify that NDAA and its implementing regulations expressly allow: homeless providers to acquire buildings and land on closing bases for emergency, transitional, and permanent housing as well as other uses for homeless assistance. See 91. 7(b)(5, discussed below.

1042-1
91.781

The recommended change is necessary to clarify that a wide range of reuses for homelessness assistance, including permanent housing, is available under the Act.

Lack of affordable housing in many base closure communities is a major cause of homelessness. Neither the NDAA nor the Stewart B. McKinney Act or its implementing regulations bars reuse of surplus military property for permanent housing. Nevertheless, there is much confusion at the Department of Health and Human Services (HHS), in communities, and among homeless assistance providers as to whether HHS will approve the use of surplus military properties for permanent housing. In fact, this year HHS has inexplicably rejected all requests and applications for permanent housing from recognized homeless providers, pursuant to the NDAA.

The Interim Rule recognizes the high priority the NDAA gives homeless providers to acquire unneeded land and buildings on closing military bases. ("Uses to assist the homeless shall take precedence unless. . . the Secretary of Health and Human Services determines that a competing request [from State or local government agencies] is so meritorious and compelling as to outweigh the needs of the homeless" 91.7(a)(7)). It recognizes that "Buildings and land on closing bases provide excellent opportunities for homeless providers to acquire the infrastructure they need to establish their programs."

Our communities know: without sufficient permanent housing, the offer of emergency and transitional housing is to condemn homeless people to permanent crisis, shelter after shelter, the streets.

This clarification is necessary to eliminate the bureaucratic gridlock between HHS and the Department of Housing and Urban Development. It will encourage communities to utilize the opportunity offered by the reuse of surplus lands under the NDAA to reduce homelessness by providing a continuum of care.

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COLUMN 2

PARAGRAPH 90.3(e).

Definitions. "Redevelopment authority"

Recommended Changes:

Insert: "Redevelopment authority": Any entity, including an entity established by a State or local government; recognized by the secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation and for directing implementation of the plan. In recognizing a redevelopment authority, the Secretary of Defense shall utilize criteria that includes fair representation of all jurisdictions in the vicinity of the base and of homeless, very low, low and moderate income individuals who reside in the vicinity or their advocates.

1042-2
90.3 E

The NDAA and this interim rule contemplate and encourage a community process for determining reuse of military surplus property at closing bases. The interim rule, however, gives no criteria for the Secretary of Defense to "recognize" the local "redevelopment authority."

Although flexibility is appropriate, the lack of clear guidance regarding this term has caused problems for many local communities and government entities. For example, communities have confused "redevelopment authority" under the NDAA with redevelopment authorities organized under various State laws.

In many base closure communities, a "reuse commission" has constituted the redevelopment authority for the transition. These reuse commissions typically have representatives from a broad range of regional and community interests, including low income and homeless people. The regulations do not speak to such commissions, however, and it is unclear whether such entities will be recognized as the "redevelopment authority."

Community representation that includes low income people assures that the planning and decision making process will in fact benefit the region and utilize the closing base as an opportunity to address regional needs, including economic development and affordable housing.

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COLUMN 2

PARAGRAPH 90.3(f)[NEW].

Definitions. "Community"

Recommended Changes:

Insert: (f)Community. The vicinity surrounding the closing base, including homeless, and very low, low, and moderate income residents, non-profits and community-based organizations assisting them, and governmental jurisdictions.

1042-3
90.3

The word "community" is used many times in the interim regulations however, this term is never defined.¹ A broad definition of the word "Community" is necessary to ensure that base reuse will be planned and treated as a regional asset rather than as simply the "property" of the city nearest the base or within its jurisdiction. In addition to including adjacent local governmental jurisdictions in the definition of community, the regulations should also ensure that all sectors of the "community" are included in the base reuse planning and implementation process.

Thus "community" includes the non-profit sector, the low-income community and the homeless community in a region.² The impact and opportunity of base closure will most affect displaced non-commissioned military personnel and their families, low income, unemployed and homeless residents in the region. Therefore the definition must require their adequate representation.

¹ Examples of the varied uses of the phrase "community" in the regulations include, "The Military Departments will work with communities to identify eligible entities [for providing McKinney Act services]", "early identification of homeless assistance requirements for land and buildings at closing bases will permit communities to development reuse plans" (Section 91.7 (b) (1); property "surpluses to Federal Agency Needs will be reported to HUD: (i) By June 1, 1994,...unless the "community" requests a postponement of the declaration of surplus" (Section 91.7 (b) (3) (i); and "the Military Departments should make every reasonable effort to assist affected communities in obtaining the personal property." (Section 91.7 (h) (4)) .

² Congress has used the phrase "community" in the base closure statutes in many ways. Importantly, Congress's use in the findings sections of Title XXIX indicates that a broad interpretation of the word is appropriate. Congress found, "a military installation [note the singular usage] is a significant source of employment for many communities [note the plural]." Congress also found the federal government should "facilitate the economic recovery of communities [note the plural] that experience adverse economic circumstances as result of the closure or realignment of a military installation [note the singular]." These findings demonstrate that Congress contemplated what reality dictates: many communities that surround a closing base are affected by base reuse and therefore, all these communities should have a say in base reuse planning and implementation.

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PAGE 16126
COLUMN 2
PARAGRAPH 90.4(a)(1)(i)
Policy
Recommended Changes:

Insert: Making transfers to a redevelopment authority for economic development affordable, when necessary to foster community redevelopment plans. Conveyances at less than the estimated fair market value shall include first source employment provisions that target displaced military workers and long-term unemployed and underemployed residents of the region.

1042-4
90.4A1I

The interim regulations use the phrase "new jobs" many times. It appears the regulations presume that making physical space available on a closed base will automatically create new jobs for the region.

The new language will help target regional job creation by requiring "first source" employment preferences for displaced military workers, long-term unemployed and underemployed, and low income residents of the region.

The interim rule provides for transfers of property or leasehold interests at less than the estimated fair market value make property affordable and thus spur economic development and the creation of new jobs. These below market conveyances, however, should require that new employment opportunities require first source hiring provisions targeted to displaced, military, long-term unemployed, underemployed and low income people in the region.

Since the basis for these sales below fair market value are "to rapidly create new jobs," we believe these regulations must include a section defining the creation of new jobs, defining the rapid creation of new jobs and requiring that any such jobs that are created go to local disadvantaged residents.

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PARAGRAPH 91.3(g),(h),(i),(j).

Definitions

Recommended Changes:

Insert: "Redevelopment authority": Any entity, including an entity established by a State or local government, recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation and for directing implementation of the plan. In recognizing a redevelopment authority, the Secretary of Defense shall utilize criteria that includes fair representation of all jurisdictions in the vicinity of the base and of homeless, very low, low and moderate income individuals who reside in the vicinity or their advocates.

1042-5
91.3E

See comment, section 90.3(e)[same, definition of "redevelopment authority; above."]

Insert: (h)Rural. An area outside a Metropolitan Statistical Area, or local governmental jurisdiction within a Metropolitan Statistical Area with a population of 10,000 or less and that has a rural character.

1042-6
91.3H

The added language is consistent with the Farmers Home Administration definition of "rural." A consistent definition of "rural" will promote inter-agency co-operation, understanding by local jurisdictions in the vicinity of the base, and promote accomplishment of rapid job-centered reuse in rural areas.

Insert: (i)Surplus property. Any excess property, including unused and under-utilized property

1042-7
91.3I

The insert tracks the definition of "surplus property" in the McKinney Act.

Comment: (j) Vicinity.

This definition is accurate and recognizing that the closing of many military bases often affects the residents of more than one jurisdiction, even where a bases happens to be located solely within one jurisdiction.

Insert: (k)[NEW] Community. The region [or "vicinity"] surrounding the closing base, including governmental jurisdiction, non-profit and community-based organizations in the region, and homeless, and low and moderate income residents of the region.

1042-9
91.3

See comments at 90.3(f), above.

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PAGE 16128
COLUMN 3
PARAGRAPH 91.7(a)(7)
Procedures (a)Real property screening.
Recommended Changes:

1042-10
91.7A7

Insert: [after last sentence of (a)(7)]The Secretary shall complete its consultation with the local redevelopment authority and shall determine whether to postpone the surplus determination or the determination to transfer within the 6 month screening period in paragraph (a)(4) of this section.

This language implements the requirements of section 2904(c) of the NDAA, which states:

"(c)APPLICABILITY--The Secretary of Defense shall make the determinations required under section 2905(b)(5) of the Defense Base Closure and Realignment Act of 1990, as added by subsection (b)[determinations of surplus and postponement], in the case of installations approved for closure under such Act before the date of the enactment of this Act, not later than 6 months after the date of the enactment of this Act."

At present there is confusion regarding when the Secretary may postpone the surplus determination. For example, at HAMILTON AFB (Marin County, California), the Navy, in compliance with NDAA mandate, submitted its determination of surplus to the Department of Housing and Urban Development on or about May 26, 1994. A full month later on or about June 26, 1994, the Navy attempted to withdraw the property list from HUD, as HUD was about to publish the list in the Federal Register. This interference with the McKinney screening contravened the Act and the interim rule. Nevertheless, the Navy presumed it had the prerogative to grant a delay or postponement any time.

As published, the interim rule does not implement the 6 month time limit to postponements of transfer or surplus determinations, as required in the Act.

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PAGE 16129
COLUMN 1,2
PARAGRAPH 91.7(b)
McKinney Act Screening
Recommended Changes:

1042-11
91.7 B1

Insert (1), or (3): Timely outreach seminars and information shall include regular tours, complete information concerning base real and personal property, and support for community education conducted by community-based organizations and legal services programs that serve the poor. The Military Department shall assist homeless providers in preparing applications for property to assist the homeless.

Subsection (1) states that:

"the military departments will work with communities to identify eligible entities and conduct timely outreach seminars to educate homeless providers with respect to the land and buildings that will be made available" on a closing base.

DoD sponsored "workshops" for homeless providers have offered substantially less comprehensive information than that provided to municipalities, DoD personnel, and their counsel. Advocates for homeless people, such as community-based organizations and legal services programs and support centers were not included in such "outreach." Further, homeless providers have had to resort to FOIA requests to obtain necessary information. Responses to such requests are often untimely, to the detriment of the providers and the McKinney screening process.

Express support for full and timely information and community education assistance by legal services programs and support centers will help homeless providers and the low income community understand and comply with the Act's complex and expedited procedures.

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PAGE 16129
COLUMN 3
PARAGRAPH 91.7(b)
McKinney Act Screening
Recommended Changes:

1042-12
91.765

Insert (5). HHS or its designee shall include consideration of applications for emergency, transitional and permanent housing, among other property uses, as subject to approval for homelessness assistance.

This will clarify that a broad range of reuses, especially for housing for homeless persons, is contemplated and encouraged by the NDAA. For over a year, there has been no resolution of the dispute between HUD and HHS as to whether an informal policy by HHS to reject all proposals for permanent housing reuses complies with the language or policy of the NDAA. See discussion, SUMMARY at PAGE 16124, COL.2, PARA.2, above.

We urge that HHS either delegate review of proposals for permanent housing to HUD, or establish some other method of including permanent housing as part of McKinney screening, as contemplated by the NDAA and Administration policy.

PAGE 16130
COLUMN 2
PARAGRAPH 91.7(c)
Local redevelopment plan.
Recommended Changes:

1042-13
91.7C

This section should require that, to qualify for an economic development conveyance, the redevelopment plan includes provisions of affordable housing and at a minimum also will:

- (1) Explain how the Redevelopment Authority will create genuinely new jobs;
- (2) propose methods whereby disadvantaged and displaced workers will be have first source employment opportunities for any jobs that are created on the base; [see comment at section 90.4(a)(1)(i), above].
- (3) explain how property, sales, and other tax revenue that may be generated by activity on the base will be allocated on a regional basis to address social needs including those of the homeless; and
- (4) propose systems whereby transportation will be improved -- in particular from low-income communities to job sites on the base and in the region.

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PAGE 16131

COLUMN 2

PARAGRAPH 91.7(e)

Economic development conveyances.

Recommended Changes:

1042-15
91.7E

We support transferring property for below market rates for economic development purposes. The regulations should establish criteria for job creation to benefit the region or low-income members of the communities in the region. See comment at section 90.4(a)(1)(i).

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PAGE 16131
COLUMN 2
PARAGRAPH 91.7(e)(2)
Economic development conveyances.
Recommended Changes:

1042-116
91.7(e)(2)

Insert: "In kind" consideration may include payments for job training for the disadvantaged, long-term unemployed, homeless, and low income persons; it may include allocations for housing for very low and low-income persons.

This subsection discusses the consideration if any, to be paid for property conveyed to a redevelopment authority under the newly authorized economic development conveyance provisions. We believe it is appropriate to spell out in some detail the sort of "in kind" payments that may constitute consideration for base properties so conveyed.

For example, redevelopment authority or local government payments for job training for the disadvantaged and long-term unemployed should count as an in kind payment for the use of the land. A disposition of property at subsidized rates for affordable housing and other social need uses should be considered an in kind payment by the redevelopment authority and relevant local governments. A provision requiring that a certain percentage of the property conveyed under an economical development conveyance be allocated for affordable housing for very low and low-income individuals is also reasonable to include as "in kind" payments.

PAGE 16131
COLUMN 2
PARAGRAPH 91.7(e)(4)
Economic development conveyances.
Recommended Changes:

1042-17
91.7(e)(4)

This section requires an appraisal of property to be conveyed under the economic development provisions based on the "proposed reuse of the property". As other commentators have pointed out, notably NAID, this provision may penalize regions that plan for high end uses of the property as determined by the market. They will be obliged to make recoupment payments based on the fair market value of the high economic use they plan for rather than the fair market value of the property "as is today."

We are concerned that redevelopment authorities may propose to the Military Department a low economic end use and then change plans after the fair market value has been assessed and pursue high economic end uses.

We suggest two possible approaches to address this issue.

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Significant planning for the reuse should be required as a condition of approval (and to the extent the proposed reuses are of lower economic value there should be some mechanism to ensure that those are, in fact, the uses the redevelopment authority pursues).

Alternatively, the language could remain as it is except for the addition of incentives that would reduce the fair market value determination and therefore the recoupment provisions. In this way the redevelopment authority and local communities would have some control over the fair market value determination and still have an incentive to plan for high economic uses that would balance with meetings social needs of the region.

In addition, the Military Department should conduct some form of substantive evaluation of the proposed benefit and feasibility of the economic development plan for such property. The redevelopment plan should meet some test of legitimacy on two fronts. First of all the planning process must have been a legitimate one that included fair representation of all jurisdictions in the vicinity, as well as homeless and low income persons, in this process. Secondly the plan must be measured for its accuracy and the likelihood of implementation.

Base assets are taxpayer assets, and should be guarded carefully. If a redevelopment authority proposes an unworkable plan, a plan that is far too vague, or simply is attempting a "land grab", then taxpayer assets will be wasted. These regulations should protect against such a prospect.

PAGE 16132

COLUMN 1

PARAGRAPH 91.7(e)(5)

Economic development conveyances.

Recommended Changes:

1042-18
91.7E5

The statements required of a redevelopment authority requesting property under the economic development conveyance provisions are inadequate. The current regulations merely call for "a redevelopment plan that includes economic development and job creation," 901.7(e)(5)(iii). The request for a transfer for no initial consideration should be required to include a feasibility analysis that is subject to evaluation. The plan must include careful statements of the number of jobs (and jobs for which people at what skill levels), how the region would provide job training, and how the redevelopment authority and local jurisdiction will address other economic development and social needs. Moreover, the statement should include a detailed analysis of the degree to which the "economic development" included in the plan will result in new ventures and the creation of new jobs.

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Some minimum requirement of jobs created or social needs provided, per dollar of subsidy from the federal government should be calculated by the Military Department in determining whether to approve such a request. There must be a reasonable return on the federal taxpayer investment.³

PAGE 16132

COLUMN 2

PARAGRAPH 91.7(f)

Profit sharing.

Recommended Changes:

1042-19
91.7F

This addresses the recoupment percentages of 60% to the local redevelopment authority and 40% to the Department of Defense. DOD must recognize that the subsidy to the local redevelopment authority will be immediately passed on in full to the private purchasers or end users of the property.

In the competitive economic development environment, given all the difficult circumstances on a closed base, a redevelopment authority is not in a position to drive a hard bargain with developers and proposed end users. Thus, this program will result in a subsidy of up to sixty percent for private parties.

With this fact comes certain ramifications. First, the incentive to lure away existing regional businesses from their present site to a site on the base will be intense. Likewise, there is incentive for these existing business to press for an opportunity to acquire base land at a 60% reduction in cost.

Second, the likely "economic development" results of these subsidies are that existing businesses in the region will be transferred from their current site to a site on the base at federal taxpayer expense. This is not economic development, nor does this "create jobs".

These regulations must not allow the base closure opportunity to be reduced to a pawn in the inter-jurisdictional competition for sales tax. One method to avoid negative results is to make the recoupment provisions contingent on what actually happens on the base. That is, a 60/40 split would apply to property where an enterprises that was actually new to the region located (or that the redevelopment authority can credibly show would not have

³ Indeed, these services certainly can be measured in economic terms and can provide a dramatic return on the federal investment involved in the subsidy. For example, by comparing the average cost of creating 200 units of affordable housing using the federal tax credit system with the cost of providing 200 units of affordable housing on a closed base, we can determine whether or not this is a good return on the federal

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located in the region at all but for the base opportunity).

PAGE 16133

COLUMN 1

PARAGRAPH 91.7(g)(2)

Leasing of real property.

Recommended Changes:

This subsection must define "the public interest" served as a result of a below-market rate lease. For all the reasons set forth above, we believe that redevelopment authorities will use this power to subsidize private end-users. As noted above, there is no indication that these end users will be creating "new jobs."

If the below-market rate lease is justified in terms of creating jobs, the regulations should require the redevelopment authority to demonstrate that they are, in fact, new jobs.

///

Thank you for the opportunity to comment on the Interim Rule and proposed regulation implementing Title XXIX of the NDAA FY1994.

Yours very truly,



LAUREN P. HALLINAN
Chair, LEGAL SERVICES TASK FORCE ON MILITARY
BASE CLOSURES
Executive Director
LEGAL AID OF MARIN

Advisory Council On Historic Preservation

1043
7/6

The Old Post Office Building
1100 Pennsylvania Avenue, NW, #809
Washington, DC 20004

July 5, 1994
VIA FACSIMILE

Honorable Joshua Gotbaum
Assistant Secretary of Defense for Economic Security
Room 3D854
The Pentagon
Washington, DC 20301

RE: Proposed 32 CFR Parts 90 and 91
Revitalizing Base Closure Communities and Community
Assistance (Interim Final and Proposed Rules)

Dear Mr. Gotbaum:

The Advisory Council on Historic Preservation has reviewed the referenced Interim Final and Proposed Rule. We have a number of comments, which are enclosed (Enclosure). However, it may be useful to provide you with a context for these comments.

The Council, an independent Federal agency created by the National Historic Preservation Act of 1966 (NHPA), is the major policy advisor to the President and Congress on historic preservation matters. Among other mandates, the Council reviews the policies and programs of Federal agencies and makes recommendations to improve the effectiveness, coordination, and consistency of those policies and programs with the purposes of the NHPA.

A key provision of the NHPA, Section 106, requires Federal agencies to take into account the effects of their undertakings on historic properties, and to afford the Council a reasonable opportunity to comment with regard to such undertakings. The Council has promulgated regulations found at 36 CFR Part 800, "Protection of Historic Properties" for the implementation of Section 106 under its statutory authority.

We have two major concerns about the interim final and proposed rules, which relate to the effects of base closure and community assistance on historic properties.

First, the interim final rule directs the military services to base their Environmental Impact Statements (EIS) under the National Environmental Policy Act (NEPA) on the community's plan for redevelopment. This creates a potential conflict with Section 106 and the Council's regulations, which require that Federal agencies consider alternatives that would avoid adverse impacts to historic properties. Theoretically, Federal agencies consider effects to historic properties in determining which proposals to examine in the EIS. However, local community plans may not consider such effects and, therefore, the military services' deference to such plans may foreclose consideration of alternatives that would be beneficial or less detrimental to historic properties.

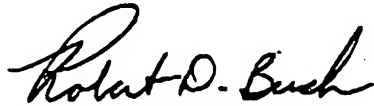
Second, the granting of funds by the Office of Economic Adjustment to communities for reuse planning and implementation assistance without adequate consideration of the effects of redevelopment on historic properties can jeopardize the military services' ability to comply with Section 106 in that the reuse plan becomes the preferred alternative. DoD will not be able to meet its statutory responsibilities under NHPA.

Finally, while these interim final and proposed rules, and DoD policy and past interim guidance to date, have recognized and addressed the requirements of NEPA, similar attention has not been given to the requirements of NHPA. NHPA is a separate authority. Such lack of attention could result in delays in rapid transfers of DoD property, given the fact that the majority of closing installations contain historic properties which will likely be affected by their transfer out of Federal ownership or control.

We strongly recommend that the current interim final and proposed rules be revised to provide for compliance with historic preservation mandates. In fact, many of the provisions of the NHPA are complimentary to, or can certainly enhance, the objectives of Title XXIX of the National Defense Authorization Act. The adaptive use of surplus military installations is fully consistent with the spirit and intent of the NHPA. We would be happy to discuss ways to meet our mutual goals and the needs of both successful base closure and reuse, and historic preservation.

I appreciate the opportunity to provide these comments. If you have any questions, or would like to further discuss our comments, please do not hesitate to call me.

Sincerely,

A handwritten signature in cursive script that reads "Robert D. Bush". The signature is written in black ink and is positioned above the printed name.

Robert D. Bush, Ph.D.
Executive Director

Enclosure

**COMMENTS ON INTERIM FINAL & PROPOSED RULES,
32 CFR PARTS 90 AND 91, REVITALIZING BASE CLOSURE
COMMUNITIES
AND COMMUNITY ASSISTANCE**

Advisory Council on Historic Preservation

General Comments

Broadly, the major components of the community reinvestment program present both challenges and opportunities to address historic preservation issues:

1. Job-centered property disposal and the related rules that encourage quick sale and parcelization must be coordinated with the requirements of Sections 106 and 110 of the National Historic Preservation Act and the Council's regulations.
2. Fast-track environmental clean-up means the services must accelerate compliance with Section 106. To date, such compliance has been sporadic at best. DoD should adopt a department-wide guideline that ensures that the services recognize that environmental remediation actions are undertakings subject to Section 106.
3. Transition coordinators should be made aware of Section 106 responsibilities so that they are able to assist communities and reuse committees in participating in the Section 106 review process and in ensuring that service compliance is completed in a timely manner.
4. Larger economic development and planning grants to communities can be used to facilitate responsible adaptive use of historic properties on installations and provide financial assistance for historic preservation planning.

Specific Comments

90.3(c): This section discusses the base realignment and closure cleanup team which oversees the environmental cleanup program at the installation. Since these teams are directly responsible for coordinating the cleanup that results in the transfer of property to the community, these teams must also be accountable for ensuring that environmental remediation activities are reviewed pursuant to Section 106 and the Council's regulations. In the Council's experience, compliance with Section 106 for remediation activities has been sporadic.

90.4(a)(5): This section authorizes OEA to provide larger economic development planning grants to fund a portion of the staff required for plan implementation. Such assistance constitutes an undertaking as defined by the NHPA and, thus, obligates OEA to take into account the effects of its undertaking on historic properties in accordance with Section 106 of the NHPA. Therefore, the Council strongly recommends that DoD appoint Federal Preservation Officers to *both* DoD and OEA to establish historic preservation programs for base closure and, ultimately, for all programs. The Council also recommends that OEA develop appropriate mechanisms to ensure that OEA's actions are consistent with their responsibilities under NHPA.

90.4(a)(5): Beyond the issue of compliance with NHPA, OEA is in a unique position to assist communities in coordinating the development of a reuse plan that capitalizes on historic assets. The Council suggests that the interim final rule require OEA to provide the communities with, at a minimum, information regarding an installation's historic properties. Further, OEA should require, as a condition of any grant, that the recipient participate in the Section 106 review process for the disposal of an installation, as appropriate.

91.7(a) and (b): These sections describe the procedures for real property and McKinney Act screening. In the Council's view, DoD should begin the Section 106 review process at the point that property is determined surplus by DoD. This is important for several reasons. First, when the information about a property's eligibility for listing on the National Register of Historic Places is gathered early in the review process it is beneficial for recipients in considering a property's potential reuse. Second, beginning the Section 106 review early in the screening process facilitates comprehensive planning for reuse of historic properties and ensures the service's compliance with Section 106. Third, integration of the screening and Section 106 review processes allow potential recipients of historic properties to weigh in the added benefits that result from tax incentives and other preservation programs. Finally, DoD is required under Section 106 of the NHPA to take into account the effect of each disposal action on historic properties.

91.7(c)(1) This section addresses the formation of a local redevelopment plan for the closing installation. In the statement, "The local redevelopment plan will generally be used as the proposed action in conducting environmental analyses required by the National Environmental Policy Act of 1969 (NEPA)...", it is the Council's opinion that an EIS based on the local redevelopment plan may complicate a military service's ability to meet the requirements of Section 106 and the Council's regulations. The regulations require the Federal agency to consider alternatives that would avoid adverse effects to historic properties.

In addition, the regulations outline a consultation process where such alternatives are weighed in the public interest. Unless the local redevelopment plan is based on the outcome of such consultation, the service cannot effectively comply with the requirements of the Council's regulations. Again, the Council reiterates the necessity of coordination between the military service responsible for Section 106 compliance for closure and disposal and OEA's parallel Section 106 responsibility resulting from granting financial assistance for redevelopment planning.

91.7(c)(2): In the Council's view, the redevelopment plan should identify whether the parcel proposed for an intended use includes historic properties.

91.7(c)(3)(iii): The Council recommends that the statement, "The DoD Component will evaluate whether the potential sale of the identified property is covered by any ongoing environmental analyses required by the N-E-P-A" also include *"or is the subject of any ongoing review required by the N-H-P-A"*.

91.7(e)(1): The Council strongly recommends the following statement be deleted in its entirety: "Additionally, closing bases often have buildings that may need to be demolished in order to encourage redevelopment and economic revitalization." In our view, DoD should not *encourage* the demolition of buildings that in all likelihood are historic. Under the NHPA and its implementing regulations, a Federal agency must seek ways to avoid, minimize or mitigate harm to historic properties. Demolition is clearly inconsistent with the Federal agency's responsibility to consider effects to historic properties.

91.7(e)(1): Conversely, the Council supports such statements as: "The conveyance for economic development should be used by local redevelopment authorities to gain control of large areas of the base, not just individual buildings." This promotes comprehensive planning and is fully consistent with the purposes of NHPA.

91.7(e)(1): Since economic development conveyances will not come under the jurisdiction of the Federal agencies that generally hold the covenants for public benefit conveyances, such as the Department of Education and the Department of Interior, what agency will ensure that such conveyances meet the restrictions?

91.7(e)(4): In the Council's view, appraisals for economic development conveyances should take into account the historic significance of the property since it can have an impact on the property's fair market value.

91.7(e)(5)(i): The Council recommends that the statement, "Description of the property to be conveyed" include *"including information about the properties eligibility for listing on the NRHP"*.

91.7(g): This section deals with leasing properties before disposal. The Council reminds DoD that while leasing historic properties is fully consistent with the provisions of Section 111 of the NHPA, leasing is an undertaking as defined by NHPA. To assist DoD in rapid approval of interim leasing of historic properties, the Council is committed to developing with DoD standard leasing provisions. However, the interim final rule should clarify the departments or entities to which the military services could redelegate their leasing authorities.

91.7(h)(2): This section addresses the disposition of personal property. Some types of personal property identified in this section, i.e. equipment, ships, etc. may be individually eligible for the NRHP or may contribute to a real property's eligibility (machines inside ammo plant). The Council strongly recommends that DoD establish procedures for determining, prior to disposal, if personal property contributes to the eligibility of historic real property and, thus, whether its disposal is an undertaking subject to the provisions of Section 106 of the NHPA.

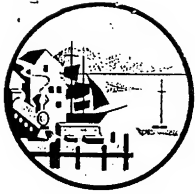
91.7(h)(8)(i)(3): This section sets forth the minimum levels of maintenance and repair for property vacated by the military services, but prior to transfer. For historic properties, decisions regarding maintenance are undertakings. Accordingly, the following statement should be revised to read, "The initial minimum level of maintenance and repair to support non-military purposes shall be determined during consultation *among* the Military Department, the redevelopment authority, the State Historic Preservation Officer, and the Advisory Council on Historic Preservation, where historic properties are present."

91.7(h)(8)(i)(3): The Council reminds DoD of the Section 110 requirements for Federal agencies to assume responsibility for the preservation of historic properties which are owned or controlled by such agencies. This requirement, in our view, is fully consistent with the objectives of the proposed rules to transfer Federal properties in the same condition at the time of closure.

91.7(j)(3)(i): This section addresses provisions for the transfer of real property to persons paying the cost of environmental restoration activities. The Council recommends the following statement to be revised as follows:

"An agreement to transfer may be executed with any person provided that person can demonstrate to the satisfaction of the Secretary concerned the ability to adequately perform all required environmental clean-up, waste management and environmental compliance activities, *and any historic preservation responsibilities, where applicable.*"

91.7(j)(3)(F)(v): The proposed rule should require the Secretary to disclose the requirement to comply with the provisions of Sections 106, 110, and 111 of the National Historic Preservation Act.



CITY OF VALLEJO

ANTHONY J. INTINTOLI
Mayor

1044 7/6

June 18, 1994

Mr. Robert Bayer, Deputy Assistant Secretary of Defense
Office of the Assistant Secretary of Defense for Economic
Security
Room 3D854
The Pentagon
Washington, DC 20301

Dear Mr. Bayer,

I am writing in reference to the Interim Final Rule ("Rule") regarding the Revitalization of Base Closure Communities as described in 32 CFR Parts 90 and 91. The Rule provides interpretive guidance concerning changes to the base realignment and closure process and establishes policy and procedure, assigns responsibilities and delegates authority under the President's Five-Part Plan - "A Program to Revitalize Base Closure Communities".

This letter presents our general comments regarding the Rule. Our specific recommendations regarding each section within Part 91.7, are presented in the attached forms entitled "Format for Comments on the Interim Rule".

This document was intended to assist local communities impacted by base closure in their reuse efforts through rapid redevelopment and job creation. In fact, the first point made in President Clinton's July, 1993 "Five-Part Plan" is "jobs-centered property disposal that puts local economic development first". However, the way the guidelines are currently written, we are concerned that this objective will not be achieved.

For the following reasons, it appears as though the primary motivation is to maximize the revenue accruing to the Department of Defense (DoD) at the expense of the local community, in terms of the costs of both capital improvements as well as operations and maintenance of the facilities.

First, it appears as though public benefit conveyances for economic development purposes may only take place after the Military Department has had an opportunity to market the preferred properties for their own revenue generation. Therefore, the remaining properties which might qualify for conveyance are likely to be difficult to market, by definition. Furthermore, the opportunity to selectively market base property by the Military Department

involved can create a "swiss-cheese" scenario where it becomes difficult for the local redevelopment authority to implement a comprehensive reuse plan.

The rapid turnover of property which is so critical to reuse success - including real estate, personal property, and human resources - will not be realized through the implementation of these guidelines. One of the reasons that the rapid turnover of Mare Island is so critical is that its skilled employees are one of its greatest resources. There has been a steady flow of technical employees leaving Mare Island in anticipation of its closure in 1996. The fewer qualified employees there are remaining when marketing efforts begin later this year, the lower the chances of the City of Vallejo to attract new employers, that would utilize the highly technical and professional skills of the remaining workforce, thereby minimizing the negative impacts caused by the closure. This is due to the specialized nature of the facilities and the difficulty in attracting employees with the skills necessary to operate them.

Second, the timetable which has been proposed in several sections such as personal property disposition and maintenance and repair of infrastructure - does not coincide with the conversion planning process, specifically at Mare Island. In particular, there are references in both of these areas to specific dates (i.e. June 1, 1994 for Personal Property decisions) as well as dates (the earliest of which) would allow the Military Department to reduce their level of maintenance and repair. For example, at Mare Island, this could occur as early as one week after the submittal of our Final Reuse Plan (July, 1994) with the closure date being almost two years later. In addition, we are concerned that the criteria proposed for the personal property disposition process are overwhelmingly in favor of the Military Department as is the decision-making process for conflict resolution.

Third, the decision-making process regarding the selective marketing of property is primarily unilateral whereby a representative of either DoD or the Military Department chooses which properties to market.

Furthermore, language in Section 91.7(e)(4) requires the local military authorities to justify - in writing - any conveyance made for less than market value. The obvious implication is that local military authorities will be expected to receive full market value for their properties unless they can justify something less. It is uncertain what would be considered sufficient justification in such a situation.


Our specific comments are attached using your suggested "Format for Comments on the Interim Rule".

To summarize, it appears as though the Rule, as currently written, will not facilitate the implementation of President Clinton's Five-Part Program. This Rule will lead to delays in the implementation of the conversion process, thereby slowing down the creation of new jobs for the local community. Given the significant impact to our regional economy of Mare Island's pending closure, there is an absolute necessity for the rapid turnover of property to the local jurisdiction.

The City of Vallejo recommends that the language of the Interim Final Rule with regard to revitalizing base closure communities be significantly revised to more accurately reflect the spirit of the President's Five-Part Program.

I hereby request that such revisions reflect the comments and recommendations made within the body of this letter and its attachments. Thank you for your consideration.

Sincerely,


Anthony J. Intintoli, Jr.
Mayor

cc: Walt Graham, City Manager
Congressman George Miller
Senator Dianne Feinstein
Senator Barbara Boxer
William Cassidy, Deputy Assistant Secretary of the Navy
David Lane, National Economic Council
National Association of Installation Developers (NAID)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Mare Island Futures Project - Vallejo, California

(Activity/Location/Community/Installation/Group)

16129

Page _____

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Column _____

91.7(b)

Paragraph _____

Recommended Changes:

What are the criteria by which HHS will evaluate McKinney Act applications? Financial capability should play a primary role in this decision, as should the local redevelopment authority.

Why:

If financial capability is not a major criterion in the evaluation process, then situation could arise whereby a piece of property is "allocated" to a homeless provider; however, if after the 12-month requirement to become operational, they are unable to secure the necessary funding - what happens to the property?

Name: Alvaro P. da Silva, Director of Community Development, City of Vallejo

Address: 555 Santa Clara Street, P.O. Box 3068, City of Vallejo

Phone: (707) 648-4444

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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Column _____

91.7(d)(3)

Paragraph _____

Recommended Changes:

Establish specific criteria, along with the requirement of a good faith deposit, for the "expressions of interest" which would be solicited in the process of determining that a "ready market" exists; furthermore, establish a panel, including local representation, to evaluate these "expressions".

Delete the option for the Military Department to extend the (6-month) period of time for expressions of interest to be submitted.

Why:

If the Military Department is given the opportunity to market preferred properties in advance of, and independently of, the local redevelopment authority (LRA), it will create a situation whereby the LRA cannot implement its comprehensive redevelopment plan; furthermore, the current language establishes a unilateral decision-making process on the part of DoD).

This additional period of time with relation to "high value properties" - by definition, the LRA would be left with only those properties for which there is not a "ready market".

There is a conflict in the usage of the term "high value properties" - on the one hand, the Military Dept. is given an extra opportunity to market for their own gain; on the other hand, in Section 91.7(e)(1), the revenue from the sale of "higher value property" is presumed to offset the local community's costs - it can't be both ways!

Name: Alvaro P. da Silva, Director of Community Development

Address: City of Vallejo, 555 Santa Clara Street, Vallejo, CA 94590

Phone: (707) 648-4444

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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Column _____

91.7(e)(4)

Paragraph _____

Recommended Changes:

Add language requiring that the costs associated with a particular piece of property (i.e. infrastructure improvements, entitlements, zoning, General Plan amendments) be taken into account when estimating the "fair market value" of that property.

Why: If these costs are not taken into account, the appraisal is likely to generate an artificially high market value, which would ostensibly be used to determine the cost of the economic development conveyance to the LRA.

Name: Alvaro P. da Silva, Director of Community Development, City of Vallejo

Address: 555 Santa Clara Street, P.O. Box 3068, Vallejo, CA 94590

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Column _____

91.7(e)(4)

Paragraph _____

Recommended Changes:

The appraisal of a property's fair market value should take into account its current condition, not only its proposed reuse.

Why:

The true market value of a piece of property must take into account the costs associated with its ownership, due to the massive costs of infrastructure improvements needed to make the property usable; the approach currently being proposed would penalize the local redevelopment authority (LRA) whereby the estimated market value would accrue to the Military Department with all the associated costs being borne by the LRA.

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Column _____

91.7(f)(2)

Paragraph _____

Recommended Changes:

Add language stating that a sharing of net profits (60/40) be required when the Military Department sells a piece of property prior to the LRA conveyances, as is now required when the LRA sells (or leases) property subsequent to an economic development conveyance.

Why:

In the spirit of cooperation and shared responsibility during the transition period - as reflected by the 60/40 split post-conveyance - both sides should share equally in the proceeds of sales and lease revenues, regardless of who receives them. ... the need for revenue on the part of the local community to help absorb the costs of converting the base to civilian use.

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Column _____

91.7(f)(4)(iv)

Paragraph _____

Recommended Changes:

Clearly define "allowable direct and indirect costs" for the purpose of calculating net profit. Furthermore, this definition should include a portion of the capital improvement costs of infrastructure systems throughout the former military installation.

Why:

The ambiguity which currently exists in this area is likely to lead to conflicting opinions of what constitutes net profit from a sale or lease.

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Column _____

91.7(h)(4)

Paragraph _____

Recommended Changes:

Regarding the reference to the four time periods related to expiration of the requirement that the inventory of personal property be completed by such date - the "whichever comes first" reference should be changed to "whichever comes last".

Why:

The four time periods listed include: (i) "one week after the date on which the redevelopment plan is submitted to the applicable Military Department"; in the case of Mare Island, this date would clearly be the one which would "come first" - early August, 1994; this is too soon to allow the plan itself to play a significant role in deciding what property the LRA is interested in keeping, as it should.

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Column _____

91.7(h)(4)(iii)

Paragraph _____

Recommended Changes:

Change the reference from "November 30, 1995" to "June 1, 1996".

Why:

By definition, "twenty-four months after the dates referred to in paragraph (h)(2) is November 30, 1995" is incorrect - the date referred to in that section is June 1, 1994. Therefore, twenty-four months later is June 1, 1996.

Name: Alvaro P. da Silva, Director of Community Development, City of Vallejo

Address: 555 Santa Clara Street, P.O. Box 3068, Vallejo, CA 94590

Phone: (707) 648-4444

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Column _____

91.7(h)(5)

Paragraph _____

Recommended Changes:

We recommend the substitution of "consent of" instead of "notice to" the local redevelopment authority, regarding the disposition of personal property.

Why: The unilateral decision making process which has been proposed does not provide for sufficient input on the part of the local redevelopment authority.

Name: Alvaro P. da Silva, Director of Community Development, City of Vallejo

Address: 555 Santa Clara Street, P.O. Box 3068, Vallejo, CA 94590

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91.7(h)(5)

Paragraph _____

Recommended Changes:

Prioritize (or indicate if there is a priority among) the seven criteria listed for evaluation of personal property for disposition purposes; form a bipartisan panel for resolution of conflicts which may arise due to these multiple criteria.

Why:

The language of these criteria is too broad and open to interpretation, with only the Military Department being in a position to resolve disputes; only one of the seven criteria are "in favor of" the local redevelopment authority.

Name: Alvaro P. da Silva, Director of Community Development, City of Vallejo

Address: 555 Santa Clara Street, P.O. Box 3068, Vallejo, CA 94590

Phone: (707) 648-4444

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Column _____

91.7(g)

Paragraph _____

Recommended Changes:

This section, regarding "Leasing of real property", should include discussion of the provisions of a Master Lease, such as the terms, indemnification provisions, etc. as well as integration with the environmental cleanup process and the priorities established for the issuance of the "Findings of Suitability to Lease" (FOSLs) in accordance with the local redevelopment plan.

Why:

The process of leasing property during the transitional/cleanup period should not be hindered by the environmental cleanup process; prioritization regarding the issuance of Findings of Suitability to Lease/Transfer (FOSL/FOST) should be market-driven, according to the local redevelopment plan.

Name: Alvaro P. da Silva, Director of Community Development, City of Vallejo

Address: 555 Santa Clara Street, P.O. Box 3068, City of Vallejo

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Column _____

91.7(i)(2)

Paragraph _____

Recommended Changes:

Change the reference to the four time periods related to expiration of the requirement that a minimum level of maintenance and repair which now reads "be continued until such date (whichever comes first)" to "..... (whichever comes last)".

Why:

The way the process is currently designed, it allows for a scenario which could, in fact, take place at Mare Island, as follows:

- the four time periods listed in Section (h)(4) include: (i) "one week after the date on which the redevelopment plan is submitted to the applicable Military Department"; in the case of Mare Island, this date would occur in early August of this year, with the base closure date still being almost two years away. If the base is thus allowed to deteriorate prior to the closure date, it will increase the cost of required improvements and make the difficult task of marketing the property that much more difficult.

Name: Alvaro P. da Silva, Director of Community Development, City of Vallejo

Address: 555 Santa Clara Street, P.O. Box 3068, Vallejo, CA 94590

Phone: (707) 648-4444

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STC 111 0712

VINT HILL ECONOMIC ADJUSTMENT TASK FORCE

26B John Marshall Street
Warrenton, VA 22186
Office: (703) 347-6965
Fax: (703) 349-2304

June 24, 1994

1045 7/6

Office of Assistant Secretary of Defense
for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

Re: Comments on BRAC Interim Final Rules

Dear Sir:

The following comments are submitted on behalf of Fauquier County, Virginia, and the Vint Hill Economic Adjustment Task Force, which was created by the County to work with the Army on the transition of Vint Hill Farms Station from military to civilian and public uses.

The two goals of the Task Force and of the County for Vint Hill Farms Station are:

1. to create new jobs for the civilian employees who will be either losing their jobs or who prefer not to transfer with their job to a new location, and
2. to create a tax base for the County on property which currently is not taxable.

It is very important to Fauquier County and to those whose jobs are being terminated or moved that new technical or managerial jobs *of a similar quality and salary level* be provided when the Army moves from Vint Hill Farms Station. The County and Task Force are very concerned that the early sales provision of the Interim Final Rules will not be concerned about the *types, quality or salary levels of jobs* which potential purchasers may offer as prospects.

The military departments who will review offers are not part of the Fauquier County community; they do not know our specific job needs, work force qualifications and re-employment goals. They are not in an appropriate position to make decisions which so vitally affect the long-term economic redevelopment of our County. The intent of the Pryor Amendment was to enable local communities to be in charge of this role. The Interim Final Rules depart from this intent, particularly in the private sector sales provision. We feel most strongly that the local community should be in charge of economic redevelopment and, cooperatively, can provide a much higher financial return over the long-term to the Army by being in charge of sales or leases to individual users whom we are now seeking for the Vint Hill Farms site and facilities. We are organized and eager for this role. We do not want the Army to take it from us, after already dealing a major blow by announcing removal of the County's largest employer.

C. HUNTON TIFFANY
Chairman

HON. J. W. LINEWEAVER
Vice Chairman

OWEN W. BLUDAU
Executive Director

Office of the Assistant Secretary of Defense
for Economic Security

June 24, 1994

Page 2

We have other concerns with sections of the Interim Final Rules. We have explained our viewpoints on these issues on the enclosed comment pages.

Both Fauquier County and the Vint Hill Economic Adjustment Task Force hope the Department of Defense will seriously listen to the community concerns received during the comment period. They come from the people most affected by BRAC. The communities want to recover from the impacts created. A quick economic recovery--for the benefit of the communities themselves, the Department of Defense, and the nation--depends heavily upon recognition in the Rules that economic redevelopment goals are unique to each community, that economic redevelopment requires good planning and a long-term local commitment to implementation, and that the communities--not the Department of Defense--are in the best positions to determine these goals and to implement them for the most rapid and appropriate job creation.

Sincerely,

A handwritten signature in dark ink, appearing to read "Owen W. Bludau", followed by a long horizontal flourish.

Owen W. Bludau
Executive Director

Encl.

cc: Senator John W. Warner
Senator Charles S. Robb
Congressman Frank R. Wolf
Secretary of Defense D. William Perry
David Lane, the White House

**Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward Comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Vint Hill Economic Adjustment Task Force
(Activity/Location/Community/Installation/Group)
Page 16130
Column 3
Paragraph 2+

Recommended changes: The decision to advertise for expressions of private sector interest and the authority to sell "all or any substantial part" of a closing base prior to the base being offered to the local community or development authority is strongly opposed by Fauquier County and the Vint Hill Economic Adjustment Task Force.

The County most strongly urges that the whole provision for advertising and private sector sale of BRAC bases and facilities be rescinded completely. This approach *will not* create jobs faster than can be created by an organized community through its local development authority.

Why: also for the following additional reasons:

- Localities should direct their own economic redevelopment, not the Department of Defense.
- It potentially negates the planning process, in that the facility could be sold while the community is planning for its best reuse.
- A sale by the Department of Defense does not *require* a guarantee of job creation and a time frame for job creation, only "prospects" of job creation; accordingly, it is an invitation to real estate speculation for sites in urban or urban fringe areas, as at Vint Hill Farms Station.
- The provision does not *require* that jobs proposed by a purchaser be in accord with the County's intended job profiles or reuse plan.
- The provision creates the very real potential for conflict between the locality, the Army, the Department of Defense, and a purchaser, where none now currently exists.
- The provision will not create jobs faster, since a purchaser must go through the identical reuse permitting steps which the County or its development authority will have to follow.
- The provision is counter to President Clinton's Five-Part plan and the intentions of the Pryor Amendment which aim at giving local governments the opportunity to direct economic redevelopment efforts.
- A sale can negate the value of the planning money and efforts expended by OEA, the Commonwealth of Virginia and the County.
- The speakers at the Regional Outreach meeting at Tysons Corner on April 29, 1994, could not give one example where such a process has worked successfully, but the Army's experience at Fort Meade, Maryland, shows how poorly the process worked on that occasion.

Name: Owen W. Bludau, Executive Director
Address: 26B John Marshall Street,
Warrenton, VA 22186
Phone: 703-347-6965

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From: Vint Hill Economic Adjustment Task Force
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Page 16130
Column 3
Paragraph 1

Recommended changes: (shown as underlined)

“.....Such appraisals or estimates should address a range of likely market values taking into account: the ‘as is, where is’ condition of existing facilities, infrastructure and property; feasible uses for the property in its ‘as is, where is’ condition; the condition of the property with regard to local zoning; known environmental problems (asbestos, lead-based paint, contaminated soils, etc.) which will remain after base closing; the uncertainties in property.....”

“.....not be based on the highest and best use, but on the current marketable usability of the facilities, infrastructure and property in its ‘as is, where is’ condition in the most likely range of uses consistent with local interests as expressed in the Base Reuse Plan. The above appraisal.....”

Why: Base construction was not subject to local development requirements, since it was federal property. In many cases, the streets, older buildings, the utility systems, the base development plan, master metering of utility systems verses individual building metering, existing environmental problems, etc. do not meet local development or health standards or permit requirements. Therefore, these facilities cannot be appraised as though they were constructed to the standards required of new development. Many improvements will need to be made to bring older bases up to current standards. Streets must be widened; greater turning radii constructed; street alignments corrected for higher public speed limits; buildings must be individually metered; utility systems--especially water and sewage treatment plants--brought up to current state standards; and similar costly improvements made to allow the bases to effectively serve new economic development or public uses. These costs must either be borne by the local governments or development agencies or the future users. Appraisal must take these costs into consideration in establishing realistic reuse values for the bases. To avoid appraising the “as is, where is” conditions of the property and facilities, and the costs inherent in “bringing them up to standards,” places unrealistic values on properties needed for economic redevelopment or reuse by impacted communities.

Name: Owen W. Bludau, Executive Director
Address: 26B John Marshall Street,
Warrenton, VA 22186
Phone: 703-347-6965

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

**Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward Comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Vint Hill Economic Adjustment Task Force
(Activity/Location/Community/Installation/Group)

Page 16131
Column 3
Paragraph 4

Recommended changes: (shown as underlined)

".....an appraisal or other estimate of the property's fair market value shall be made, based on the current marketable reuse condition of the facilities, infrastructure and property in its 'as is, where is' condition and including consideration of the estimated costs necessary to cause the facilities, infrastructure and property to meet local environmental, development and health standards or reuse permit requirements. The Military Department shall consult with the local redevelopment authority on appraisal assumptions, guidelines, local development and reuse standards, and on instructions given to the appraiser, but shall....."

Why: Appraisals must be based on the "as is, where is" condition of the property, facilities, and infrastructure and should take into consideration the costs necessary to bring the property, facilities and infrastructure up to the standards required of all other publicly and privately owned property for purposes of reuse. The appraisal cannot just take into consideration the potential reuse possibilities without considering what is involved in making them competitively reusable. It must realistically consider the costs--whether to the Department of Defense, local government, the local development authority, or a private purchaser--to bring military facilities into conformance with current local environmental, development and reuse standards, and discount the value accordingly.

Economic redevelopment or reuse is an extremely competitive market. Users cannot be attracted to non-competitive locations and facilities designed primarily for military uses unless significant financial discounts or incentives are used to offset the disadvantages inherent in these properties. Whether the end purchaser, a development authority or the local government brings former military facilities into conformance with local reuse standards, the costs must be borne. The appraisal must recognize these facts in determining realistic market values. Values cannot be set solely upon consideration of reuse potential and as if the existing military facilities were in an "as market ready" condition.

Name: Owen W. Bludau, Executive Director
Address: 26B John Marshall Street,
Warrenton, VA 22186
Phone: 703-347-6965

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

**Format For Comments On The Interim Rule
Implementing Title XXIX Of The
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Forward Comments to: Office of Assistant Secretary of Defense for Economic Security
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Washington, DC 20301-3300

From: Vint Hill Economic Adjustment Task Force
(Activity/Location/Community/Installation/Group)

Page 16131 & 16133
Column 2 & 3
Paragraph 4 & 1

Recommended changes: Appeals of disputed military decisions are directed through the same military channels to the Secretary of the Military Department concerned. These may be appeals of a disputed decision regarding a private sector sale of a base to be closed, or of excess personal property that a community seeks for economic development purposes. As now written, appeals must be directed to the same channel which made the decision being challenged. That is not an unbiased appeals channel.

An unbiased appeals channel is needed to objectively weigh disputed military needs and desires against local economic redevelopment needs and desires.

Why: The established appeals channel follows existing military department chains of command. Military decisions to seek income from a base sale or for use of excess equipment for units which are not being moved are areas of potential community-military dispute. A community appeal of a decision made by this chain of command, to the same chain of command, in all probability could not receive unbiased consideration. This appeals channel is a prescription for conflict between local communities and the Military Departments concerned. A separate appeals channel or office having less potential for bias needs to be designated to render objective decisions involving disputed issues between the military and local communities.

Name: Owen W. Bludau, Executive Director
Address: 26B John Marshall Street,
Warrenton, VA 22186
Phone: 703-347-6965

(NOTE: LIMIT TO 1 COMMENT PER PAGE)



STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

1046
7/6

JOHN ENGLER
GOVERNOR

June 30, 1994

Mr. Joshua Gotbaum
Assistant Secretary of Defense, Economic Security
The Pentagon
Room 3D814
Washington, D.C. 20301-3300

Dear Mr. Gotbaum:

On April 6, the Department of Defense (DoD) published proposed and interim rules implementing the Pryor-Levin amendments to the 1994 DoD Authorization Act in the Federal Register. This letter is in response to DoD's request for comments.

As you know, Michigan is affected by two base closings: Wurtsmith AFB near Oscoda and K.I. Sawyer AFB near Gwinn. My comments are based on our experience during the Wurtsmith closing. I have also consulted with Governors of other states and my comments reflect information gained in discussions with them.

These comments are provided within the context of each section of 32 CFR Part 91.7-Procedures. Each comment is identified by the letter assigned to the section:

(a) Real property screening: Under subsection (9) (page 16128) new language should be added to provide for the early return of state-owned land which may have been leased to a military department. Further, the DoD should re-state its willingness to live within the parameters of any lease terms which may provide for the restoration of the property. Finally, DoD should commit to accepting state environmental remediation standards on property it has leased from a state government.

(d) Jobs-centered property disposal (page 16130): Prior to the implementation of these rules, the local or state reuse authorities shouldered the sole responsibility, including all costs for marketing obsolete military installations. DoD now apparently proposes to "cherry pick" the most market-attractive former military properties, leaving the less desirable ones to the local authorities. DoD should reconsider its entire approach to this proposal. The department should either take responsibility for marketing all of the properties or it should surrender all to local development authorities.

(e) Economic development conveyance and (f) profit sharing (pages 16131-16133): These regulations are moving in the right direction--towards assisting local communities with economic development. However, given the relative size of the DoD budget when compared with local communities, it could afford to be more generous in conveying properties to local development authorities without cost. Instead of creating an elaborate system, DoD should simply give these properties to locally-constituted development authorities. While DoD may be trying to avoid scandal through the



Mr. Joshua Gotbaum
Page Two
June 30, 1994

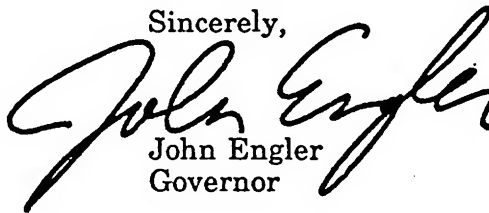
unforseen transfer of these properties for private gain, DoD and the communities could both gain the desired fruits of defense downsizing by requiring local entities to not dispose of properties for a set period of time, perhaps five to ten years. DoD would be rid of a maintenance drain and the communities would have the unfettered ability to quickly use the assets of the bases to attract new employees.

(g) Leasing of real property (page 16133): Although these views are necessarily colored by Michigan's exposure only to the Air Force process, informal contact among the respective Governors indicates this is a serious problem afflicting all military departments. Despite repeated promises of quicker action over the last two years, it still takes a minimum of six months for the Air Force to provide a lease for a specific building or parcel at a closed military installation. Often it takes longer. Surely, this is not responsive to the local reuse needs or to market conditions. Frankly, I believe this is due to the overly stratified review process employed by the respective military departments. While this subsection reads of delegation to DoD officials closest to local reuse authorities, there does not appear to be any sanctions against the military departments if they do not produce leases in a timely manner. Yet, communities have lost jobs because potential reuse employers have given up waiting for lease documents. I believe this section should dismantle the complex conversion process within the military departments and truly delegate lease decisions to local DoD managers. Moreover, these managers should be required to turn around a lease application within 60 days or face a sanction. As the situation stands now, only the local reuse authorities are penalized--through job losses--if DoD military departments do not produce a lease in a timely manner.

(h) Personal property (page 16133): This is a dramatic improvement for the benefit of the local reuse authorities, primarily to bases closed in the 1993 round. Perhaps, the communities whose bases closed as a result of the 1991 process could be afforded rights to some of the equipment voluntarily surrendered by 1993 round local development authorities. It was primarily the sour experience of the 1991 communities which led the Congress to provide these rights for communities in succeeding rounds.

Again, I appreciate the opportunity to share my views on these regulations.

Sincerely,



John Engler
Governor

JE/ss



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE

Western Region

600 Harrison Street, Suite 600

San Francisco, California 94107-1372

S7417(782)

July 1, 1994

1047 1/6

Assistant Secretary of Defense
(Economic Security)
The Pentagon, Room 3D814
Washington, D. C. 20301-3300

Dear Sir:

I am pleased to provide the following comments on the interim final rule which implements both Title XXIX of the National Defense Authorization Act for Fiscal Year 1994 and the President's Five-Part Plan to revitalize base closure communities.

We also wish to express concern about the possible effect of the regulations on National Park Service's ability to administer the public benefit discount provisions of Section 203(k)(2) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(d)(2)) and to recommend technical corrections to the interim rule which will allay these concerns.

Of particular interest are those portions of a base which contain public park and recreation values and whether the implementation of the new regulations will have an impact on our ability to ensure these resources remain in the public estate through the Federal Lands-to-Parks Program.

It is our understanding that the Congress intended that base closures be conducted in accord with the 1949 Act, where appropriate, and that the new legislation fulfill one of the objectives in the President's Five-Part Plan by adding economic development to the list of "public uses" which already qualify for no cost or discounted conveyances.

The Department of Defense reinforces this perception by stating in section 90.4(a)(1) that its policy is to implement the President's plan by expeditiously transferring real and personal property that enhance economic development and job creation *or other public benefits*.

The regulations go even further in that same section by generically stating that the use of existing public benefit conveyances should be considered where appropriate, *before* the use of public benefit conveyance for economic development purposes.

However, subsequent sections suggest that in some instances real property sales take precedence over public benefit conveyances or references to the public benefit disposal process have been omitted entirely. These concerns are particularly applicable to the job-centered disposals addressed in Section 91.7(d)(3) and (d)(4) and form the basis for the two major recommendations expressed below.

RECOMMENDATION 1: Section 91.7(d)(3)--Public benefit conveyances are recognized as a priority in 91.7(e)(3), are acknowledged in (d)(4) but are conspicuously omitted in the procedures for section (d)(3) conveyances. This is in error.

Therefore, subsection (ii) should be rewritten to require that Military Departments weight public benefit conveyance proposals and local agency support for such proposals before offering the property for sale and should also include the same language as in (d)(4) (revised below) which would exclude property likely to be disposed of under existing public benefit conveyance program from the (d)(3) job-centered disposal process.

RECOMMENDATION 2: Section 91.7(d)(4)--Park and Recreation has been omitted from the list of possible public benefit conveyances. The fifth sentence should read: "In making these determinations, *park and recreation*, airport, port, and school property should be excluded if it appears that they are likely to be converted to public *park and recreational use*, airports, ports, or schools, *or other uses* under existing public benefit conveyance programs".

The following recommendation addresses a major inconsistency in the interim rule with respect to the procedures and time frames for State and local agency screening.

RECOMMENDATION 3: Appendix B to Part 91--Closure and Transition Timeline for a BRAC Base That Closes on September 30, 1997, indicates that State and local screening will be completed by June 1. This is contradicted by 91.7(a)(8) which states that screening of real property with State and local government agencies shall take place concurrently with McKinney Act screening (another 60-175 days after completion of Federal agency screening), and 91.7(c)(2)(ii) which implies an even longer period of time (up to 1 year) may be necessary to insure that appropriate public benefit recommendations are included in the local redevelopment plan.

The remaining recommendations (4-8) identify those sections where corrections and modifications are necessary to insure consistency within the interim final rule and with Recommendations 1 and 2.

RECOMMENDATION 4: Section 90.4(a)(1)(i)--The second sentence should be rewritten to be consistent with 91.7(e)(3) as follows: "~~The use of~~ Existing public benefit conveyances should be ~~considered~~ used, where appropriate, before the use of a public benefit conveyance for economic development."

RECOMMENDATION 5: Section 91.4(a)--A statement should be included in the policy that reflects the exception for public conveyances allowed under 91.7(d)(4) and proposed for (d)(3): "Selling properties quickly for public or private development to speed up job creation where a ready market exists *except those properties that may be excluded by the local redevelopment authority for public benefit conveyance.*"

RECOMMENDATION 6: Section 91.7(d)(2)--This section requires the Military Departments to conduct appraisals or other estimates of fair market value to identify properties with potential for rapid job creation. Among other guidelines, this section indicates "the appraisal should not be based on the highest and best use, but the most likely range of uses consistent with local interests". This section should be revised to include among the "likely range of uses" potential public benefit conveyances such as park and recreation.

RECOMMENDATION 7: Section 91.7(e)(1)--A statement should be added to the fifth sentence to provide consistency: "*..., after it is determined that the base or significant portions thereof, cannot be sold in accordance with the rapid job creation concept or transferred through a public benefit conveyance.*"

RECOMMENDATION 8: Section 91.7(e)(3)--The First sentence can be strengthened by deleting the word "generally": "The economic development conveyance authority is an addition to existing public benefit authorities and, ~~generally~~, should not be used when...."

We appreciate the opportunity to comment on the interim final rule. Additional clarification, if needed, can be obtained from Pete Sly, Manager, Federal Lands-to-Parks Program, National Park Service, Western Region, (415) 744-3972.

Sincerely,



Joan Chaplick
Chief, Grants Branch
Western Region

Field Feedback



COMMUNITY DEVELOPMENT DEPARTMENT
440 Harcourt Avenue
Seaside, CA 93955-0810

Telephone (408) 899-6220
FAX (408) 899-6227

1048 7/6

July 7, 1994

Mr. Robert Bayer
Deputy Assistant Secretary of Defense
for Economic Security
Room 3D814
The Pentagon
Washington, D.C. 20301-3300

Dear Mr. Bayer:

Attached are the City of Seaside's comments regarding the Title XXIX Interim Rule. The City has submitted six (6) separate comments in accordance with the format your office specified.

Should you or your staff have any questions regarding these comments, please contact Dennis W. Potter at 408-899-6223.

Thank you for your consideration of these comments.

Respectfully

A handwritten signature in black ink, appearing to read "SAM HEAD", is written over a horizontal line.

SAM HEAD
Assistant City Manager/
Community Development Director

Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense
For Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: City of Seaside, Seaside, California (Fort Ord)

Page: 16129
Column: 1
Paragraph: 91.7(b)

Recommended Changes:

Insert new language which provides a "balancing process" whereby the Secretary of Defense, in conjunction with the redevelopment authority, can require McKinney Homeless applications to be sited in accordance with the redevelopment authority's reuse plan.

Why:

Under current law, McKinney Homeless applications take precedent over all non-military property requests. This gives McKinney applications a unique opportunity to disrupt a redevelopment authority's reuse planning process. This disruption occurs when McKinney applicants request property which has a higher economic value for economic recovery purposes than homeless housing.

Allowing the Secretary of Defense, in conjunction with the local redevelopment authority, to place McKinney Homeless applicants in locations which complement the reuse plan will address this issue.

Name: Dennis W. Potter
Address: P.O. Box 810, Seaside, California 93955
Phone: 408-899-6223 FAX: 408-899-6215

Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense
For Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: City of Seaside, Seaside, California (Fort Ord)

Page: 16130
Column: 2
Paragraph: 91.7(d)(1)

Recommended Changes:

Clarify exactly how the new property disposal process contained in paragraphs (e) and (f) apply to 1988 and 1991 closures. Who determines and by what process is the determination made, for paragraphs (e) and (f) to apply to 1988 and 1991 closures.

Why:

As drafted the Interim Rule does not provide "certainty" as to whether or not paragraphs (e) and (f) apply to 1988 and 1991 closures. Without "certainty" redevelopment authority's will be left to the whim of the individual military departments and the Department of Defense to, on a case by case basis, apply paragraphs (e) and (f) to the 1988 and 1991 closures. This will greatly increase the difficulty of the redevelopment authority's in developing and implementing a base reuse plan.

Under current law, McKinney Homeless applications take precedent over all non-military property requests. This gives McKinney applications a unique opportunity to disrupt a redevelopment authority's reuse planning process. This disruption occurs when McKinney applicants request property which has a higher economic value for economic recovery purposes than homeless housing.

Allowing the Secretary of Defense, in conjunction with the local redevelopment authority, to place McKinney Homeless applicants in locations which complement the reuse plan will address this issue.

Name: Dennis W. Potter
Address: P.O. Box 810, Seaside, California 93955
Phone: 408-899-6223 FAX: 408-899-6215

Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense
For Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: City of Seaside, Seaside, California (Fort Ord)

Page: 16130
Column: 3
Paragraph: 91.7(d)(2)

Recommended Changes:

Insert language which requires the selection of these properties and the development of appraisal instructions to be done in conjunction with the redevelopment authority and the local government with land use authority.

Why:

First, this paragraph assumes the Military Department will conduct a separate disposal process, parallel to and in competition with the process of the redevelopment authority. This paragraph contains no specific requirement the Military Department work with the redevelopment authority.

Second, this paragraph assumes the Military Department controls the land use authority over the property to be appraised. This is not true. The Military Department can not provide an appraiser instructions for a valid appraisal unless the local land use authority has established "development entitlements" for the property.

Name: Dennis W. Potter
Address: P.O. Box 810, Seaside, California 93955
Phone: 408-899-6223 FAX: 408-899-6215

Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense
For Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: City of Seaside, Seaside, California (Fort Ord)

Page: 16130

Column: 3

Paragraph: 91.7(d)(3)(ii)

Recommended Changes:

Delete this paragraph in its entirety.

Why:

This paragraph establishes a separate and competing disposal process to that of the redevelopment authority. This should not occur. The Military Departments should not be disposing of property. Property disposal should be done only by the redevelopment authority in accordance with its base reuse plan.

Name: Dennis W. Potter

Address: P.O. Box 810, Seaside, California 93955

Phone: 408-899-6223 FAX: 408-899-6215

Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense
For Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: City of Seaside, Seaside, California (Fort Ord)

Page: 16132
Column: 3
Paragraph: 91.7(f)(4)((iv))

Recommended Changes:

Delete specific references to various federal regulations and insert new language which requires that allowable community costs will be established, jointly, by the redevelopment authority and the Military Department, based upon the interim and final reuse of the property.

Why:

The operating and capital costs for property at a military base will vary throughout the country and will vary from use to use depending on the existing condition of the property and the intended interim and final use of the property. "Blanket" federal rules and regulations will not fit the individual bases appropriately.

Simple solutions to complex problems create more problems than they solve. Flexibility is necessary.

Name: Dennis W. Potter
Address: P.O. Box 810, Seaside, California 93955
Phone: 408-899-6223 FAX: 408-899-6215

Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense
For Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: City of Seaside, Seaside, California (Fort Ord)

Page: 16133
Column: 3
Paragraph: 91.7(h)(5)

Recommended Changes:

Insert new language which provides for an "appeal process" to the Secretary of Defense regarding removal of "indispensable" personal property.

Why:

The current Interim Rule provides the Military Department with the sole power to determine what is "indispensable" personal property and have that personal property transferred to another military installation. There is no method for the redevelopment authority to challenge these actions. Institutionally, the Military Departments have no vested interest in providing personal property for redevelopment authority. The Military Departments will, by any method possible, remove all property from a closing military base.

Experience at Fort Ord has shown that the Army's goal is to "strip" Fort Ord of all personal property it can remove. The removal of building fire sprinklers revealed the strong desire of the Army to "strip" the post.

Name: Dennis W. Potter
Address: P.O. Box 810, Seaside, California 93955
Phone: 408-899-6223 FAX: 408-899-6215

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

1049
7/6

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Restoring the Bay Campaign
(Activity/Location/Community/Installation/Group)

Page 16128
Column three
Paragraph one

Recommended Changes:

Section 91.7 (a)(5), last sentence

Decisions on the transfer of property to other Federal Agencies shall be make by the Military Department concerned in consultation with the local redevelopment authority, State and local governments, special regional bodies such as recreation and utility districts, and any interested organizations, academic groups or individuals with relevant expertise.

Why:

The local redevelopment authority may not have the wherewithal to incorporate all the relevant considerations into its response to the proposed transfer. Non-profit organizations and academics with expertise in land use planning, various relevant state and federal laws, ecological restoration, archaeological preservation, active recreational uses, etc. are not always represented on the redevelopment authorities, and not always given a chance to express their views. Also, the closure of the military bases represents opportunities to meet regional needs which the individual authorities may not be aware of or concerned about.

Name: Ruth Gravanis

Address: Restoring the Bay Campaign
c/o Save San Francisco Bay Association
1736 Franklin Street, 3rd Floor

Phone: Oakland, CA 94612
(510) 452-9261

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Restoring the Bay Campaign
(Activity/Location/Community/Installation/Group)

Page 16128
Column 3
Paragraph

Recommended Changes:

Section 91.7 (a)(7), last sentence, last line

... communities affected by the closure of the installation and as necessary to ensure full compliance with all applicable laws, including but not limited to the Migratory Shorebird Act and the Endangered Species Act.

Why:

It may take more time than originally anticipated for the Secretary concerned to receive all the necessary information regarding relevant laws and policies.

Name: Ruth Gravanis
Address: Restoring the Bay Campaign
c/o Save San Francisco Bay Association
1736 Franklin Street, 3rd Floor
Oakland, CA 94612
Phone: (510) 452-9261

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

1050
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EET EDISON ELECTRIC
INSTITUTE

July 5, 1994

ROBERT L. BAUM
Executive Vice President
Policy, Administration and General Counsel

Office of the Assistant Secretary of Defense
for Economic Security
Room 3D854
The Pentagon
Washington, D.C. 20301

Re: Interim Final Rule On Revitalizing Base Closure
Communities and Community Assistance

Edison Electric Institute (EEI) is pleased to provide comments on the Department of Defense's (DoD) interim final rule (59 Fed. Reg. 16,123 (1994)) implementing the "Pryor Amendment." The DoD interim final rule establishes procedures for transferring closed military bases for economic redevelopment of communities in which the bases are closing.

EEI is the trade association of investor-owned electric utilities. Its members generate 78% of all electricity in the United States and serve 76% of all end users. EEI's interest in this proceeding is tied to the presumption that the property being transferred to local authorities contains electrical facilities. The manner in which utility property is transferred and operated after transfer could have a direct impact on EEI's member companies as well as the success of any redevelopment efforts.

EEI and its members are concerned that the interim final rule is silent on the question of electric utility facilities. In implementing a final rule, EEI requests that DoD consider including specific guidance on how these highly technical and valuable facilities will be transferred. The unique characteristics of utility infrastructure on closed bases requires separate treatment under the rule.

The interim final rule does not address the disposal of utility systems and the underlying real property rights on closed military bases. As a result, the proposed rule does not classify utility systems as real or personal property, and it does not provide for the transfer of the companion real property rights. Utility companies may not have the desire to buy the base buildings in order to acquire the utility system which serves them; and it is unlikely the redevelopment authorities will have the desire to own, operate, or maintain

July 5, 1994
Page 2

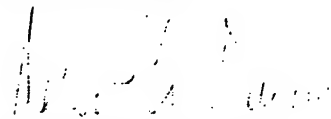
the utility system serving the buildings on the closed bases. EEI member companies currently serving the closed bases have attributes that make them the best candidates for the most effective use of the base system. Utility companies should participate in the initial screening process with the redevelopment authorities to assure that the system is compatible with the local redevelopment plans.

In addition, the costs of upgrading the base utility systems to comply with state and local requirements are not included in the appraisal process, and Federal funding has not been made available to implement these upgrades. The rule should allow consultation with the utility companies on appraisal assumptions and guidelines for utility systems. Just as funds are expended by the government to remediate base properties, funds should be available to upgrade utility systems.

EEI appreciates the opportunity to provide these general comments on policy and endorses the specific comments of its member companies who also are commenting on the interim final rule. EEI and its member companies have been, and will continue to be, active in economic development and look forward to working with the DoD to provide guidance in revitalizing base closure communities.

If you have any questions in regard to EEI's comments, please contact Sally Hooks, EEI's Manager of Economic Development, at 202/508-5553.

Sincerely,



Robert L. Baum

Myrtle Beach Air Base Redevelopment Authority

1181 Shine Avenue
Building #500
Myrtle Beach, SC 29577

(803) 238-0681

FAX: (803) 238-0579

1051
7/6

July 1, 1994

Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

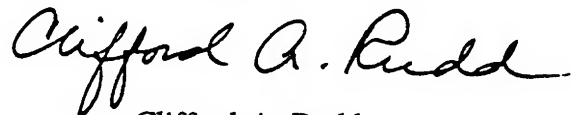
Dear Assistant Secretary of Defense:

The Myrtle Beach Air Base Redevelopment Authority submits the enclosed comments on the DoD Interim Rule implementing Title XXIX of the National Defense Authorization for your consideration. We sincerely hope that many of our suggestions will be accepted and incorporated into the Rule.

In general, the Interim Rule is considered somewhat complex, therefore, it is difficult for many citizens to comprehend these rules as they apply to the Myrtle Beach Air Force Base situation. Our comments are designed to simplify and add flexibility to the Rule, as well as promote a higher level of cooperation and coordination of vital decision-making between the Military Department and the local redevelopment authority. We believe that the secret of success will be the forging of a strong partnership between the federal property disposing agency and the local redevelopment authority.

If you have any questions or need further clarification of the comments, please give me a call.

Sincerely,



Clifford A. Rudd
Executive Director

\cta

Enclosures

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: **Myrtle Beach Air Base Redevelopment Authority**

Page: 16127 **Consultation Definition**
Column: 3
Paragraph: 91.3 (c)

Recommended Changes:

definition of consultation should be changed to the following:
Consultation. Fully explaining and discussing an issue and carefully considering objections, modifications and alternatives to ensure that a proposed action is compatible with the local redevelopment plan.

Why: this proposed definition would make redevelopment a true partnership between the Military Department and the community.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 **Fax:** (803) 238-0579

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
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From: **Myrtle Beach Air Base Redevelopment Authority**

Page: 16127 Fair Market Value Definition
Column: 3
Paragraph: 91.3 (f)

Recommended Changes:

Insert a new definition as paragraph 91.3 (f) and renumber the subsequent definitions accordingly. The proposed new definition is as follows:

(f) Fair Market Value. An estimated value of the property, done on an "as is" basis reflecting current use, condition and zoning. The estimate should be developed by an appraisal or similar method generally accepted by the commercial real estate industry and professional real property appraisal standards.

Why: communities will have to invest heavily in infrastructure improvements before the property is suitable for its proposed use. The current definition of fair market value would actually penalize communities for making these infrastructure improvements.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 Fax: (803) 238-0579

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From: **Myrtle Beach Air Base Redevelopment Authority**

Page: 16127 **Redevelopment Authority Definition**
Column: 3
Paragraph: 91.3 (g)

Recommended Changes:

add the following sentences to the end of the definition: The DoD recognition decision for the base redevelopment authority organization will be based on a mutual agreement with the base planning committee and state and local governments. In the event that no mutual agreement can be reached within a reasonable period of time the DoD may select the organizational option favored by the State Government.

Why: to strengthen the relationship between the community and the Military Department yet provide flexibility in the event of local conflicts.

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Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 Fax: (803) 238-0681

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From: **Myrtle Beach Air Base Redevelopment Authority**

Page: 16127 Rural Definition
Column: 3
Paragraph: 91.3 (h)

Recommended Changes:

add the following words to the end of the sentence: , or an area within
an MSA that is officially designated as rural by another Federal agency.

Why: to add flexibility to those communities with bases that are large, mostly
rural settings, yet within multi-county MSAs.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 Fax: (803) 238-0579

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From: **Myrtle Beach Air Base Redevelopment Authority**

Page: 16128 Responsibilities
Column: 1
Paragraph: 91.5 (a)

Recommended Changes:

add the following sentence to the end of the paragraph: ASD(ES) will coordinate and consolidate the interpretations of the Heads of the DoD Components so that there is one common set of rules, regulations and interpretations to implement the Laws; add a new paragraph (c) to read as follows: The Military Departments shall secure the approval of the Assistant Secretary of Defense for Economic Security and the DoD General Counsel for any Military Department legal opinion regarding a decision or jurisdictional matter of the Base Closure and Realignment Commission.

Why: to simplify the rules through coordination and consolidation of staff interpretations and promote consistency and fairness in the decision making process for all communities.

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Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 Fax: (803) 238-0579

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From: **Myrtle Beach Air Base Redevelopment Authority**

Page: 16128 Real Property Screening
Column: 3
Paragraph: 91.7 (a)(5)

Recommended Changes:

rewrite the last sentence of paragraph (5) as follows: Decisions on the transfer of property to other Federal Agencies shall be made by the Military Department concerned when such a transfer is supported by the local redevelopment plan. If a proposed transfer conflicts with the local redevelopment plan, the Secretary of Defense will make the final transfer decision.

Why: to strengthen the role of the community redevelopment plan.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 Fax: (803) 238-0579

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From: **Myrtle Beach Air Base Redevelopment Authority**

Page: 16129 McKinney Act Screening
Column: 1
Paragraph: 91.7 (b)(1)

Recommended Changes:

rewrite sentence no. 1 to read as follows: The Stewart B. McKinney Homeless Assistance Act, as amended, is a statute designed to permit HHS-approved providers of assistance to the homeless to receive a high priority in acquiring unneeded land and buildings on Federal properties provided those facilities are appropriately accommodated within the local redevelopment authority's reuse and redevelopment plan; and add the following sentence after sentence no. 3, line 18: The Military Departments will ensure that facilities provided to qualified homeless providers do not impede the marketability of the adjacent properties or the remainder of the redevelopment activities proposed to be undertaken by the local redevelopment authority's plan; and add the following sentences at the end of the paragraph: the local redevelopment authority shall be entitled to offer equivalent facilities on the military base that meet the needs of the homeless provider. If the Military Department agrees that the offered property is comparable, the McKinney conveyance for the property originally requested should be denied in favor of the alternative property.

Why: to add flexibility to the Military Department to allow reasoned decisions concerning homeless provider facilities in order to protect the marketability of the community's redevelopment plan.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 **Fax:** (803) 238-0579

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From: **Myrtle Beach Air Base Redevelopment Authority**

Page: 16130 **Local Redevelopment Plan**
Column: 2
Paragraph: 91.7 (c)(1)

Recommended Changes:

rewrite sentence no.4, line 9 to read as follows: The local redevelopment plan will be used (if available) as the proposed action in conducting environmental analyses required by the National Environmental Policy Act of 1969 (NEPA), (42 U.S.C. 4332 et seq.).

Why: to strengthen the role of the community redevelopment plan and ensure that the EIS is as useful to the community as possible.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 Fax: (803) 238-0579

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From: **Myrtle Beach Air Base Redevelopment Authority**

Page: 16130 **Jobs-Centered Property Disposal**
Column: 3
Paragraph: 91.7 (d)(1)-(7)

Recommended Changes:

Why: Delete the entire section on Jobs-Centered Property Disposal.
to strengthen the role of the local redevelopment plan and prevent a premature sale that is not in keeping with the plan. Redevelopment must proceed very quickly to prevent unnecessary job loss at certain bases with high civilian employment. Local redevelopment authorities could develop the property faster than the proposed process which adds a minimum nine-month delay for expressions of interest, analysis, and comment. This built in delay would be unnecessarily burdensome for communities that will experience immense and immediate civilian job loss as a result of base closure. Additionally, for large multiple use properties, comprehensive development is necessary prior to disposal of individual parcels. Jobs-Centered property disposal will actually encourage the sale of individual parcels ("cherry picking") to the detriment of redeveloping the entire base. There is an obvious need to identify the fair market value of, and demand for the property. However, the local redevelopment planning process should be the vehicle by which the Military Department and the local properties/facilities for early sale and/or solicit expressions of interest.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 Fax: (803) 238-0579

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Page: 16130 **Jobs-Centered Property Disposal**
Column: 3
Paragraph: 91.7 (2)

Recommended Changes:

If the entire section concerning Jobs-Centered Property Disposal is not eliminated, the following changes are recommended:

rewrite the first sentence to read as follows: The local redevelopment authority, in concert with the Military Department, should identify properties with potential for rapid job creation, as part of the redevelopment planning process. The Military Department should seek an early opportunity to test the local real estate market after: (1) the facility and environmental conditions at the base are identified; (2) the community has completed its base redevelopment plan; (3) the community has identified the likely required public infrastructure for the property; and (4) the local jurisdiction has indicated the likely local land use zoning the property will receive. At the same time, the Military Department must obtain an appraisal or other estimate of the property's fair market value as soon as possible to establish a basis for conveyance of the property.

Why: to ensure that an early sale is not mistakenly premature and thus counterproductive to the remainder of the local redevelopment plan.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 Fax: (803) 238-0579

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Page: 16130 **Jobs-Centered Property Disposal**
Column: 3
Paragraph: 91.7 (3)

Recommended Changes:

add the following words to the end the first sentence: , provided the requirements for an early market test listed in paragraph (d)(2) have been satisfied.

Why: to ensure that an early sale is not mistakenly premature and thus counterproductive to the remainder of the local redevelopment plan.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 **Fax:** (803) 238-0579

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Page: 16130 **Jobs-Centered Property Disposal**
Column: 3
Paragraph: 91.7 (d)(3)(ii)

Recommended Changes:

rewrite the first 2 sentences as follows: The Military Departments, in concert with the local redevelopment authorities, will analyze each expression of interest and determine within 30 days of receipt if it is made in good faith and represents a reasonable development proposal. If the Military Department, in concert with the local redevelopment authority, decides that an expression of interest received demonstrates the existence of a ready market, the prospect of job creation, and offers proceeds consistent with the range of estimated fair market value, it may decide to offer the property for sale.

Why: to strengthen the working relationship between the Military Department and the local redevelopment authority.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 Fax: (803) 238-0579

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From: **Myrtle Beach Air Base Redevelopment Authority**

Page: 16131 Economic Development Conveyances
Column: 3
Paragraph: 91.7 (e)(1)

Recommended Changes:

add the following sentence after sentence 5, on line 5 of column 3: The determination on non-marketability will be made jointly by the Military Department in concert with the local redevelopment authority; omit sentence 6, line 5 and replace with the following: Such conveyances are intended to assist the local redevelopment authority implement its redevelopment plan; add the following sentence after sentence 7, line 12 of column 3: During the life of the base redevelopment project, the local redevelopment authority may reinvest profits in needed base capital improvements according to an approved Base Capital Improvements Program as described in (f)(3)(10).

Why: to strengthen the working relationship between the Military Department and the community and to provide resources for needed infrastructure.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 Fax: (803) 238-0579

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Page: 16131 Economic Development Conveyances
Column: 3
Paragraph: 91.7 (e)(4)

Recommended Changes:

omit (4) and replace with the following: Before making an economic development conveyance of real property, an appraisal or other estimate of the property's fair market value in an "as-is" condition shall be made for the current military base situation and also on the proposed reuse of the property, taking into account any known infrastructure deficiencies that must be remedied before reuse or redevelopment can occur. Appropriate adjustments in the fair market value will be made for existing military facilities that must be removed from the property before redevelopment, based on the redevelopment plan, can occur.

Why: to provide appropriate safeguards to the community to avoid problems inherent to properties without a standard level of infrastructure or with specialized military facilities that are inappropriate for civilian reuse or redevelopment.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 Fax: (803) 238-0579

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From: **Myrtle Beach Air Base Redevelopment Authority**

Page: 16132 Profit Sharing
Column: 2
Paragraph: 91.7 (f)(1)

Recommended Changes:

rewrite sentence no. 1 to read as follows: When real property is conveyed as described in paragraph (e) of this section, the Department of Defense shall generally share in the division of future profits (after completion of the Base Capital Improvements Program) should the property be subsequently sold or leased; and add the following sentence to the end of the paragraph: Accumulated local and federal shares of the profits may be applied to the implementation of the Base Capital Improvements Program as described in paragraph (f)(3)(iv).

Why: to provide resources for infrastructure development.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 Fax: (803) 238-0579

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Page: 16132 Profit Sharing
Column: 3
Paragraph: 91.7 (f)(4)(ii)

Recommended Changes:

after sentence no. 1 add the following sentence: Reinvestment of the profits in the Base Capital Improvement Program may satisfy the recoupment requirement.

Why: to provide resources for the community to provide needed infrastructure improvements for the Base.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 Fax: (803) 238-0579

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Page: 16132 Profit Sharing
Column: 3
Paragraph: 91.7 (f)(4)(iv)

Recommended Changes:

after paragraph (iv)(B) add (C) as follows: Accumulated annual net profits may be retained by the local redevelopment authority for reinvestment in a series of 5-year Base Capital Improvements Programs (CIP). A CIP may be developed by the local redevelopment authority based upon the redevelopment plan and shall be reviewed and approved by the Military Department for a series of 5-year periods not to exceed the life of the local redevelopment project. The project shall end at such time as both the local redevelopment authority and the Military Department agree that all property has been conveyed to other non-redevelopment agencies or persons and the work of the local redevelopment authority has ended. The CIP may include planned infrastructure investment projects listed in the redevelopment plan that will provide for the necessary reuse and redevelopment of the Base.

Why: to provide resources for the community to provide needed infrastructure improvements for the Base.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 Fax: (803) 238-0579

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Page: 16132 Profit Sharing
Column: 3
Paragraph: 91.7 (f)(4)(iv)(A)

Recommended Changes:

rewrite the paragraph to read as follows: Capital costs, as provided in 41 CFR 101-47.4908.(b), including directly related off-site capital improvements if included in the Base Capital Improvements Program.

Why: to provide flexibility to fund off-site improvements for services required on the base.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 Fax: (803) 238-0579

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Page: 16132 **Profit Sharing**
Column: 3
Paragraph: 91.7 (f)(4)(v)

Recommended Changes:

rewrite sentence no. 2 to read as follows: The notice of sale or lease will be accompanied by an accounting or financial analysis indicating the net profit, if any, from a sale, or the estimated annual profit from a lease after taking into account the deposit of profits in a local redevelopment authority's approved Capital Improvement Program fund or account; and add the following sentence: The accounting or financial analysis may be a consolidated report for all properties on the Base.

Why: to provide appropriate flexibility in reporting procedures to accommodate a CIP.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 **Fax:** (803) 238-0579

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Page: 16133 Leasing of Real Property
Column: 1
Paragraph: 91.7 (g)(1)

Recommended Changes:

add the following wording to line 8: . . . , where appropriate and in
concert with the local redevelopment authority, . . .

Why: to strengthen the working relationship between the Military Department
and the local redevelopment authority.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 Fax: (803) 238-0579

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Page: 16133 Leasing of real Property
Column: 1
Paragraph: 91.7 (g)(3)

Recommended Changes:

add the following sentence to the end of the paragraph: The Military Department shall complete its FOSL determination in an expeditious manner and shall provide the local redevelopment authority with a preliminary or final determination within six weeks after receipt of a written request.

Why: to require that the Military Department assign a high priority to this activity.

Name: Clifford A. Rudd, Executive Director
Address: 1181 Shine Avenue
Myrtle Beach, SC 29577

Phone: (803) 238-0681 Fax: (803) 238-0579



WELLINGTON E. WEBB
Mayor

LOWRY ECONOMIC RECOVERY PROJECT

LTNGC / LERP
250 Rampart Way, Building 349, Room 3114
Lowry AFB, CO 80230-3121
(303) 676-5282, FAX: (303) 343-9135



PAUL E. TAUER
Mayor

1052
7/6

MEMORANDUM

TO: Office of Assistant Secretary of Defense for Economic Security
FROM: Lowry Economic Recovery Project
SUBJECT: Comments on the Interim Rule Implementing Title XXIX of the National Defense Authorization Act for FY 94
DATE: June 22, 1994

The Lowry Economic Recovery Project (LERP) herewith submits our formal written comments to the Department of Defense's interim rules to implement the 1993 Congressional action commonly known as "the Pryor amendment." These comments are submitted with the full endorsement of the Project's Executive Committee comprised of Denver Mayor Wellington Webb, Aurora Mayor Paul Tauer, Denver City Council member Polly Flobeck and Aurora City Councilmember Nadine Caldwell. In addition, the interim rule received thorough review by Denver and Aurora staff and these comments by LERP are also submitted on behalf of/ and with the endorsement of both cities.

The Lowry Economic Recovery Project has had a long and active involvement in shaping the initiatives which are intended to improve and expedite the base closure and conversion process. We encouraged and actively participated in a meeting with newly appointed Clinton and DoD officials shortly after the 1992 inauguration. Many of the ideas expressed at that meeting, assembled by the National Association of Installation Developers (NAID) and the National Association of Counties (NACO), became an integral part of President Clinton's Five Part Community Assistance Plan and ultimately the Pryor Amendment. LERP Executive Committee and staff took an active interest in the development and passage of the Pryor amendment. We gave input both through NAID and directly to Senator Pryor's staff.

All of the efforts were fundamentally aimed at simplifying and making sense out of a very complex base conversion process. Of critical importance to Denver and Aurora and many other base closure communities is the new economic development conveyance mechanism for

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transferring significant base property to communities for economic development and job creation. This new conveyance mechanism has the enthusiastic support of communities as a viable way to make redevelopment of military bases happen. We are indebted to NAID and NACO for elevating this idea to serious deliberation at the federal level and to the National Economic Counsel (NEC) and DoD for developing it into a viable Congressional initiative which culminated in the Pryor amendment.

We are cautiously optimistic about the broad language in the interim rule about the process for economic development conveyances and less than fair market value leasing provisions. Since Lowry is closing in September of this year and we are anticipating a Record of Decision in late July, we have submitted an economic development conveyance request under our interpretation of the interim rule as written. We are hopeful that the Air Force will liberally interpret that guidance and see as its underlying goal to get as much base property as possible into the hands of the community for early and planned economic recovery.

Because of our time frame at Lowry, we recognize that we will likely be operating under the interim rule for all of our economic conveyance, leasing and personal property negotiations. Likewise, the interpretation of the McKinney screening provisions as written in the interim rules will no doubt dictate how Lowry is treated over the next several months. Simply stated, for Lowry and other bases recently closed or soon scheduled for closure, we recognize that we'll be the "test cases" for the practical application of this interim rule. In many ways it will set the stage and the tone for how communities can expect to interact with DoD and the military services under the new rules of the game. We are hopeful that this new process can be a true win-win for both the military and the base closure communities who should have as a common goal early and successful conversion and redevelopment of former military bases.

We do however, want to take the opportunity to formally comment on the interim rules in a sincere attempt to make sure these rules work for us as well as other communities to follow. We verbally expressed many of these ideas at the DoD Outreach Seminar we attended in Dallas. We greatly appreciated the opportunity to hear directly from the actual rule developers and writers what they intended or were hoping to convey by a particular section. We felt that all the presenters were receptive to input and specific suggestions for improvement, clarification and perhaps even reinterpretation.

Following the Outreach Seminar, and based on what we heard there, we attempted to put together very thoughtful and deliberate comments on the draft rule. We trust that our comments will be received with the thought that we sincerely hope to help create a process that serves the needs of impacted communities and local governments as well as the military and the federal government.

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We stand available to discuss or clarify any of our comments. The point of contact for this effort at the LERP is Kay Miller who can be reached at (303) 676-5282. We are hopeful that an open, collaborative dialogue between DoD, the military services, NAID and the base closure communities will result in final rules and regulations that will work to the benefit of all.

We thank you for the opportunity to comment on this interim draft rule.

cc: Senator Hank Brown / attn: Sherri Smith
Senator Ben Nighthorse Campbell / attn: Pam Wohler
Congressman Dan Schaefer / attn: Andree Krause
Congresswoman Patricia Schroeder / attn: Kip Cheroutes
Alan Olsen, AFBCA / Teresa Pohlman, AFBCA
Dorothy Robyn, NEC
NAID - Jane English, President

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From: Lowry Economic Recovery Project
(Activity/Location/Community/Installation/Group)

Page: 16126

Column: 3

Paragraph: 90.4 (iii)

Recommended Changes:

The policy should clearly state that 1988 and 1991 round base closures are eligible for economic development conveyances. The policy should also state that these early round bases are so far along in their planning that the process for soliciting private market expressions of interest will automatically be waived unless the community reuse planning agency specifically requests the military department to solicit private expressions of interest.

Why:

1988 and 1991 base closure communities are generally so far along in their planning process that a 6 month or longer process to solicit interest would result in unnecessary delays in the conveyance of property. Local reuse planning organizations will undoubtedly have conducted market studies. They should be immediately informed of the installations availability for economic development conveyance so they can move expeditiously to respond with an application.

Name: Lowry Economic Recovery Project
Address: LTNGC/LERP
250 Rampart Way
Building 349, Room 3114
Lowry AFB, CO 80230-3121

Phone: (303) 676-5282

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

(1)

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Page: 16126

Column: 2

Paragraph: 90.3(e) definitions - redevelopment authority

Recommended Changes:

We agree with the comments submitted by NAID that language should be added that further defines and gives examples of redevelopment authorities which will be recognized. The rule should also state that the redevelopment authority which is recognized and designated by the community reuse planning organization which receives OEA funding as the entity eligible to receive property should be the reuse authority recognized by DoD.

Why:

States and localities will differ widely across the country in the types of redevelopment entities they form or designate to deal with military base reuse. This variance is due to differences in state enabling laws, constitutional restrictions, varying degrees of local government authority and constraints, and political realities. DoD should give maximum flexibility in recognizing authorities which state and local governments wish to designate to receive military property and redevelop it.

(Note: We have submitted identical comments for 91.3(g) definitions sections)

Name: Lowry Economic Recovery Project
Address: LTNGC/LERP
250 Rampart Way
Building 349, Room 3114
Lowry AFB, CO 80230-3121

Phone: (303) 676-5282

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Column: 3

Paragraph: 91.3 (g) definitions - redevelopment authority

Recommended Changes:

We agree with the comments submitted by NAID that language should be added that further defines and gives examples of redevelopment authorities which will be recognized. The rule should also state that the redevelopment authority which is recognized and designated by the community reuse planning organization which receives OEA funding as the entity eligible to receive property should be the reuse authority recognized by DoD.

Why:

States and localities will differ widely across the country in the types of redevelopment entities they form or designate to deal with military base reuse. This variance is due to differences in state enabling laws, constitutional restrictions, varying degrees of local government authority and constraints, and political realities. DoD should give maximum flexibility in recognizing authorities which state and local governments wish to designate to receive military property and redevelop it.

(see comments on 90.3(e) p. 16126 for identical comments under redevelopment authority definition)

Name: Lowry Economic Recovery Project
Address: LTNGC/LERP
250 Rampart Way
Building 349, Room 3114
Lowry AFB, CO 80230-3121

Phone: (303) 676-5282

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3D814, The Pentagon
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(Activity/Location/Community/Installation/Group)

Page: 16127

Column: 1 (b)

Paragraph: 90.4(3) policy

Recommended Changes:

The word "leased" should be eliminated from this paragraph.

Why:

Nowhere else in the guidance is there any indication of an intent for profit sharing under leasing arrangements. All of the profit sharing language in 91.7 on p. 16132 applies to net profit sharing after future sales of property conveyed under the economic development conveyance provisions in 91.7 (e)

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250 Rampart Way
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Column: 2 or 3

Paragraph: 91.3 definitions (add paragraph (k))

Recommended Changes:

Agree with NAID's comments regarding the need for a common definition of fair market value to be contained in this section. Support the definition proposed by NAID.

Why:

The differing methods of determining fair market value under the ready market and economic development sections of the regulations are confusing and conflicting. It appears to us that the only reasonable fair market determination must be made on the basis of the property as currently zoned, in its existing condition with existing infrastructure and considering current market conditions. To do otherwise or to attempt to base the value on the "proposed use" would appear to be "crystal balling" which the regulation writers purport to want to avoid.

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Address: LTNGC/LERP
250 Rampart Way
Building 349, Room 3114
Lowry AFB, CO 80230-3121

Phone: (303) 676-5282

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Page: 16128

Column: 2

Paragraph: 91.7(a) (3) - real property screening

Recommended Changes:

Agree with the NAID comment that all decisions regarding the retention of property for military purpose must receive the approval of the Assistant Secretary of Defense for Economic Security, except for those approvals which have occurred prior to the issuance of the April 6 regulations.

Why:

Decisions to retain parcels of land for military use have real impact on redevelopment plans. Ensuring community input into these decisions is critical. Having the final approval rest with the Assistant Secretary of Defense for Economic Security ensures that these decisions will not be made lightly and that the community is assured of an avenue for input.

Name: Lowry Economic Recovery Project
Address: LTNGC/LERP
250 Rampart Way
Building 349, Room 3114
Lowry AFB, CO 80230-3121

Phone: (303) 676-5282

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Page: 16128

Column: 3

Paragraph: 91.7(a) 7 real property screening

Recommended Changes:

Clarify the process for declaration of surplus by the military department.

Why:

There has been and continues to be enormous confusion and disparity in regard to the way military departments handle surplus declarations. We have been told that AFBCA intends to make its declaration of surplus simultaneous with the Record of Decision. This timing is extraordinarily late especially for public benefit conveyances to occur expeditiously.

If this 91.7(a) provision intends that the property be declared surplus once the federal screening is completed (unless the redevelopment authority requests a delay), the regulation should clearly state this.

Name: Lowry Economic Recovery Project
Address: LTNGC/LERP
250 Rampart Way
Building 349, Room 3114
Lowry AFB, CO 80230-3121

Phone: (303) 676-5282

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Column: _____

Paragraph: 91.7(b) McKinney act screening

Recommended Changes:

This section must be written to be perfectly clear that only one comprehensive McKinney screening is required to comply with the intent of Pryor, whether that screening takes place before or after an official declaration of surplus. It is our understanding that following that screening and the accompanying required 60/90/25 day periods, the one-year moratorium begins on McKinney screenings to allow the local redevelopment authority to submit its written expression of interest for the property. Again, it needs to be clear that this one year period begins whether or not there has been a declaration of surplus. The alternative solution would be for an official declaration of surplus to occur simultaneously with the McKinney screening. As required by (3) of this section, that should occur no later than June 1 of 1994.

Why:

Our reading of the Pryor amendment indicates that Congress intended to limit the McKinney screening to a single screening for 1993 bases and beyond and then give the reuse authority a year to express its interest in the base to implement its plan. If that same principle applies to 1988 and 1991 bases, there should be a single screening under Pryor (unless exempted as allowed in the regulations) and then the one year period for the local redevelopment authority to act should begin. This sequence should occur whether or not an official declaration of surplus has been made since Congress was silent on that issue.

Name: Lowry Economic Recovery Project
Address: LTNGC/LERP
250 Rampart Way
Building 349, Room 3114
Lowry AFB, CO 80230-3121

Phone: (303) 676-5282

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Page: 16130

Column: 2

Paragraph: 91.7(c) local development plan

Recommended Changes:

A new paragraph (3) should be added to clarify that for 1988 and 1991 bases which have already submitted their plans that all of the elements contained in (2)(i) through (iv) need not be present. Rather 1988 and 1991 bases who intend to request a economic development conveyance under (e) should include the necessary economic development and job creation data and support in their request since all of the elements may not be contained in community reuse plans submitted prior to these April 6 regulations.

Why:

Self explanatory

Name: Lowry Economic Recovery Project
Address: LTNGC/LERP
250 Rampart Way
Building 349, Room 3114
Lowry AFB, CO 80230-3121

Phone: (303) 676-5282

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Page: 16130 & 16131

Column: several

Paragraph: 91.7(d) jobs centered property disposal

Recommended Changes:

For 1988 and 1991 bases that are well along in their reuse planning process, it is our opinion that the process of soliciting expressions of interest from the private sector will slow things down in most cases. Local redevelopment planning organizations will already have conducted extensive market studies, focus groups and other economic analysis to determine private market interest in the facilities.

Therefore, for 1988 and 1991 bases, we suggest that the process for waiver be reversed from that laid out in the proposed regulation. The process of solicitation of interest should not occur unless the Secretary requests a waiver to proceed and the affected community reuse planning organization concurs that this process should take place. Some communities may desire that DoD conduct this additional solicitation of interest and that should be their prerogative.

Why:

Comments are self explanatory. Concern is with the lengthy delay that could occur for 1988 and 1991 bases.

Name: Lowry Economic Recovery Project
Address: LTNGC/LERP
250 Rampart Way
Building 349, Room 3114
Lowry AFB, CO 80230-3121
Phone: (303) 676-5282

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From: Lowry Economic Recovery Project
(Activity/Location/Community/Installation/Group)
Page: 16131
Column: 2
Paragraph: 91.7 (e) (i)

Recommended Changes:

At the end of the first sentence add the words "or current conditions." so that it reads "may not be readily marketable due to its location or current condition."

Why:

The current condition of the facilities and especially the infrastructure can be a serious impediment to the redevelopment and marketability of a base. The new economic development conveyance process needs to take this fact into account in considering requests for property at less than fair market value. We are generally concerned that the economic development conveyance "test" seems to be largely dependent on the ability to demonstrate job creation. It is imperative that DoD recognize that economic recovery is not measured in terms of one-for-one job replacement.

Putting closed military bases back into productive reuse may be enhanced by the upgrading and replacement of antiquated infrastructure, demolition of obsolete buildings, and additional site improvements. Indeed such improvements may be fundamental to successful redevelopment. Having the resources and generating the required revenues through properties obtained through an economic development conveyance will ultimately lead to job creation. The jobs that can eventually be created through the modernization of facilities will likely far exceed the prospects for immediate job creation in obsolete facilities.

We would implore that DoD clarify in its final regulations that these kinds of justifications for economic development conveyance requests be given equal weight to those that can demonstrate immediate job creation. It is important to point out that nowhere in the Pryor amendment does the Congress specifically refer to job creation. Rather, Section 2903(c) expressly directs the Secretary to "consider locally and regionally delineated economic development needs and priorities into the process by which the Secretary disposes of real property..." The regulations need to reflect that Congressional intent.

Name: Lowry Economic Recovery Project
Address: LTNGC/LERP
250 Rampart Way
Building 349, Room 3114
Lowry AFB, CO 80230-3121
Phone: (303) 676-5282

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Page: 16131

Column: 3

Paragraph: 91.7(e) (4) economic development conveyance -- property appraisal

Recommended Changes:

The words "based on the proposed use of the property" should be changed to "based on current zoning and current infrastructure and market conditions" -- "as is, where is".

Why:

It seems improbable that an appraiser could crystal ball the fair market value of a parcel or a property based on some proposed future use. There can be no absolute assurance that the proposed use will be realized. It seems more reasonable to base the appraisal on the property as it sits, with present conditions considered.

Name: Lowry Economic Recovery Project
Address: LTNGC/LERP
250 Rampart Way
Building 349, Room 3114
Lowry AFB, CO 80230-3121

Phone: (303) 676-5282

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Column: 1

Paragraph: 91.7(e) economic development conveyance

Recommended Changes:

Add language to (5)(iii) p. 16132 to read: "For communities who have already submitted redevelopment plans which may not have anticipated economic development conveyances, the request itself should provide supporting data and information on anticipated job creation and economic development benefits of such a conveyance.

Why:

Self-evident

Name: Lowry Economic Recovery Project
Address: LTNGC/LERP
250 Rampart Way
Building 349, Room 3114
Lowry AFB, CO 80230-3121

Phone: (303) 676-5282

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Page: 16132

Column: 2 & 3

Paragraph: 91.7(f) profit sharing

Recommended Changes:

- 1) Agree with NAID's comments that a negotiated payback period not to exceed 20 years, should be explicitly allowed. Amend sub paragraph (1).
- 2) Add language to (4)(iii) to clarify the intent stated at the outreach conferences that this provision would not preclude communities from offering property at a reduced price or with incentives in order to encourage economic development or job creation.

Why:

The underlying purpose and stated policy of the economic development conveyance provisions is to assist in "inducing" a market to enhance economic recovery. Local redevelopment authorities need to have maximum flexibility and creativity to help make economic development occur.

Name: Lowry Economic Recovery Project
Address: LTNGC/LERP
250 Rampart Way
Building 349, Room 3114
Lowry AFB, CO 80230-3121

Phone: (303) 676-5282

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Page: 16132

Column: 3

Paragraph: 91.7(f) profit sharing (4)(B) direct and indirect costs

Recommended Changes:

Agree with NAID's comments that the reference to CFR part 31 is not helpful. Revise to delineate specific acceptable costs, both operating and capital costs. Agree with the NAID list of eligible costs but believe it should be broadened even further to state "other allocable costs agreed upon between the local redevelopment authority and the military service."

Why:

We believe an explicit list such as NAID has proposed gives certainty and clarity to local redevelopment authorities up front as to what will be acceptable, deductible expenditures. This predictability is essential for sound business planning. LRA's are going to depend on future sales profits to make infrastructure improvements, demolish building and land for development. They must have certainty in making those expenditures that they will be allowed to keep that investment.

Having McKinney relocation costs expressly named as a deductible expense is critical to Lowry. Our local solution to reducing the number of HHS approved McKinney units to the number called for in our community plan is to "buy out" the additional approved units and give the McKinney providers the resources to buy comparable units in the metro area. This is our answer to true dispersment of homeless housing, and we believe paramount to the successful redevelopment of Lowry.

Our suggestion that "other agreed upon costs" be added is that it is simply premature to attempt to develop an exhaustive list of allowable costs. We can envision other costs, for instance even the relocation of federal users, which we and the AF may both agree are acceptable expenditures to make certain parcels attractive for redevelopment. There simply needs to be some room for negotiation.

Name: Lowry Economic Recovery Project
Address: LTNGC/LERP
250 Rampart Way
Building 349, Room 3114
Lowry AFB, CO 80230-3121

Phone: (303) 676-5282

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Page: 16133

Column: 3

Paragraph: (h)(5)(i)

Recommended Changes:

Add the following language to the end of the paragraph:

"Required items would not normally include base operating support property that would be used to house, feed or facilitate base support functions due solely to increasing the population of the realigned base."

Why:

"Mission essential" should be property that the realigning unit would use in the day-to-day performance of their mission not that the gaining base would use in support of the new mission.

Name: Lowry Economic Recovery Project
Address: LTNGC/LERP
250 Rampart Way
Building 349, Room 3114
Lowry AFB, CO 80230-3121

Phone: (303) 676-5282

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Column: 3

Paragraph: 91.7(i) (2) minimum level of maintenance

Recommended Changes:

We agree with NAID's comments that subparagraph (2) should be amended to require that the Military Department be required to maintain base closure facilities for up to two years after base closure, or 18 months after the property is ready for civilian reuse, whichever is the later date, or until the community enters into an interim lease for the property. However our recommendation is to add to the NAID language the words "and enters into a paying sublease".

Why:

Communities or local redevelopment authorities cannot be asked to take on the financial responsibility of caretaking property until it is generating some money to pay for the cost of maintenance and security. In order to consummate subleases, the authority will need to have its lease with the military department in place. There may be a lag period between these two events. Unless the authority has a paying sublease generating money for O&M, the Military Department should continue to caretake the facility.

Name: Lowry Economic Recovery Project
Address: LTNGC/LERP
250 Rampart Way
Building 349, Room 3114
Lowry AFB, CO 80230-3121

Phone: (303) 676-5282

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Helen Foreback

THE AMERICAN INSTITUTE OF ARCHITECTS

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H. Foreback
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July 5, 1994

Terrence M. McDermott
Executive Vice President/CEO

Office of the Assistant Secretary of Defense for Economic Security
Room 3E854
The Pentagon
Washington, DC 20301

Dear Mr. Secretary:

On behalf of The American Institute of Architects (AIA), I am pleased to provide the attached comments on the Interim Final Rule, "Revitalizing Base Closure Communities and Community Assistance", included in the Federal Register for April 6, 1992, 32 CFR Parts 90 and 91. The AIA is the professional association of 56,000 members representing the nation's architects.

Architects have an important role to play in the future of communities affected by the downsizing of the defense establishment. They bring special skills to the task of integrating closed military facilities to their host communities, not just in the design of individual buildings and other structures, but also in the community's strategic planning for the facility's reuse, the design of that reuse, and its relationship to the surrounding or adjacent community. Thus, the Defense Department's approach to its departure from local communities is an important concern of architects and the AIA.

We hope that the Department will find these comments useful in what we expect will be an evolving process. We also look forward to working with the Department to ensure the effectiveness of this process.

Sincerely,

A large, stylized handwritten signature of Terrence M. McDermott in black ink.

Terrence M. McDermott
Executive Vice-President/CEO

TMM:ace
enclosure

COMMENTS OF THE AMERICAN INSTITUTE OF ARCHITECTS
on the
DEPARTMENT OF DEFENSE INTERIM FINAL RULE
"REVITALIZING BASE CLOSURE COMMUNITIES AND COMMUNITY ASSISTANCE"

Overview

The American Institute of Architects (AIA) and its members have extensive experience in assisting communities in developing and realizing their plans for revitalization. This experience has special relevance for localities' reuse of closed military facilities. Among the AIA's programs is the Regional/Urban Design Assistance Team program which fields teams of architects to aid communities in resolving complex issues concerning growth, development and economic revitalization. This program has been conducted in more than 120 American communities, both large and small.

The AIA has also helped fashion recent major federal community planning and design initiatives. We played a principal role in developing the metropolitan and state planning requirements for the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), led the preparation of the strategic planning guide for the Empowerment Zone/Enterprise Community program for the Department of Housing and Urban Development (HUD), and helped draft the Consolidated Planning Process that HUD is just now concluding. This latter process will reorganize and reform the way that states and large communities plan for the use of their formula community development grant programs so that they work in a coordinated, comprehensive fashion.

The AIA has carefully studied the interim final rule concerning the reuse of closed military facilities by local communities. The rule is seriously deficient. In general, although it places substantial emphasis on the process for making facilities available for reuse, almost totally absent from the rule is any substantive framework for determining that use. Specifically:

- Concerning the Local Redevelopment Plan, the rule ironically contains no rules for either redevelopment or for planning.
- It provides little useful guidance to affected localities for either revitalization or community assistance.
- It fails to take account of Administration policies and federal laws that bear directly on the base reuse process, including federal transportation and community development planning requirements.
- It is virtually silent on public participation, strategic planning, community planning, and coordination of programs. The value and necessity of good urban design in successful redevelopment plans are not mentioned at all.

Unless these deficiencies are corrected, we fear that they will increase the likelihood of missed opportunities, poorly planned projects, unrealized economic schemes, urban sprawl and downtown disinvestment, and an ultimate loss of public confidence in the efficacy of the base closing process. Successful civilian reuse of military facilities is usually a complex and difficult process. The success of the Defense Department's mission of placing its closed facilities to ready, capable local

hands depends on issuance of a more useful, more complete rule that addresses the core issues in a more coherent and helpful framework.

Below, we discuss the deficiencies of the interim final rule in greater detail and offer recommendations for addressing those problems. Our comments generally require rewriting sections of the rule. Accordingly, we do not provide specific language.

1. The job-centered property disposal process. This process would appear at first glance to be of benefit to affected communities. Having the Military Departments conduct a nationwide solicitation for rapid private use of a closed facility may extend the economic outreach of the community, creating a presence in the national marketplace that an individual community may not be able to achieve. Prospective developers that a community could not encourage on its own may appear as a result of this process.

On the other hand, the job-centered property disposal process can create serious problems for affected communities. Under the rule, the Military Departments can decide, over the objections of the redevelopment authority and of the locality, that the property will go to a particular private interest for a particular use deemed reasonable by the Department in question. Although the rule allows for the redevelopment authority to challenge the decision and provides a notice in writing of the final determination, the decision-making process may be applied unevenly from one community to another.

Recommendation: The rule should include standards that regulate the ability of the Military Departments to override the locality's stated interest.

While potential offerers for properties processed for job-centered property disposal are encouraged to "work with the redevelopment authority so that their development goals will be compatible with the local development plans", there is no requirement that they be compatible. There is also no requirement that the successful bidder's project conform to a locality's land use plans or zoning laws, or that the public be involved in the process, despite general language about extensive consultation in the rule's preamble. Thus, the job-centered property disposal process which is intended to benefit a community could actually contravene the community's overall development plans.

Recommendation: Require that potential offerers work with the redevelopment authority to assure the compatibility of reuse plans with local development plans and also require a public participation process.

2. High value properties. Properties that the Military Departments consider to have the highest marketability and value and which are not conveyed to the locality, except through a negotiated sale. This means that the properties that could most successfully replace a locality's economic loss from a base closure will not be made available to the locality except on the terms of the Military Departments. And under an additional provision, properties which the Departments are convinced have high value and ready marketability, but which for some reason did not draw expressions of interest, may continue to be held for the Departments' disposition. Only those properties not deemed high grade, and not conveyable for public benefit purposes, such as airports or schools, can be readily acquired at low or no cost by affected localities. While the

Village of
GLENVIEW

1054 7/6

TELEPHONE
708-724-1700
FAX 708-724-0916



1225 WAUKEGAN ROAD
GLENVIEW, ILLINOIS 60025-3071

July 1, 1994

Mr. Joshua Gotbaum
Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20103-3300

Dear Mr. Gotbaum:

Attached please find comments on Interim Rules implementing Title XXIX of the National Defense Authorization Act for FY94. The Glenview Naval Air Station Community Reuse Planning Group's main objection with the Interim Rules deals with the Job Centered Property Disposal section. You will note that the recommendation from our community is to eliminate all references to Job Centered Property Disposal. If, in the final analysis, that is not possible, it is our belief that local communities which are organized and have the ability to generate and implement a reuse plan should be granted an economic development conveyance prior to the Department of Defense seeking to market and sell the property. This process will lead to more rapid redevelopment and job creation, which allows local communities to recover from a base closure even more quickly.

Thank you for this opportunity to provide input into the policy-making process regarding the Pryor Amendment. We look forward to a cooperative and successful reuse process.

Sincerely,

Nancy L. Firfer

Nancy L. Firfer
Village President/Chairperson, GNAS
Community Reuse Planning Group

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cc: Capt. David Larson (OEA)
Capt. James C. Schultz (GNAS Commander)
Cdr. Don Owen (GNAS Transition Coordinator)
Paul T. McCarthy (Village Manager/Executive Director Community Reuse Planning Group)
Matthew D. Carlson (Asst. to the Village Manager/Asst. Executive Director, Community Reuse Planning Group)
Jane English (President, National Association of Installation Developers)
Madeline S. McGee (Chief Operating Officer, Trident's BEST Policy Committee)

hands depends on issuance of a more useful, more complete rule that addresses the core issues in a more coherent and helpful framework.

Below, we discuss the deficiencies of the interim final rule in greater detail and offer recommendations for addressing those problems. Our comments generally require rewriting sections of the rule. Accordingly, we do not provide specific language.

1. The job-centered property disposal process. This process would appear at first glance to be of benefit to affected communities. Having the Military Departments conduct a nationwide solicitation for rapid private use of a closed facility may extend the economic outreach of the community, creating a presence in the national marketplace that an individual community may not be able to achieve. Prospective developers that a community could not encourage on its own may appear as a result of this process.

On the other hand, the job-centered property disposal process can create serious problems for affected communities. Under the rule, the Military Departments can decide, over the objections of the redevelopment authority and of the locality, that the property will go to a particular private interest for a particular use deemed reasonable by the Department in question. Although the rule allows for the redevelopment authority to challenge the decision and provides a notice in writing of the final determination, the decision-making process may be applied unevenly from one community to another.

Recommendation: The rule should include standards that regulate the ability of the Military Departments to override the locality's stated interest.

While potential offerers for properties processed for job-centered property disposal are encouraged to "work with the redevelopment authority so that their development goals will be compatible with the local development plans", there is no requirement that they be compatible. There is also no requirement that the successful bidder's project conform to a locality's land use plans or zoning laws, or that the public be involved in the process, despite general language about extensive consultation in the rule's preamble. Thus, the job-centered property disposal process which is intended to benefit a community could actually contravene the community's overall development plans.

Recommendation: Require that potential offerers work with the redevelopment authority to assure the compatibility of reuse plans with local development plans and also require a public participation process.

2. High value properties. Properties that the Military Departments consider to have the highest marketability and value and which are not conveyed to the locality, except through a negotiated sale. This means that the properties that could most successfully replace a locality's economic loss from a base closure will not be made available to the locality except on the terms of the Military Departments. And under an additional provision, properties which the Departments are convinced have high value and ready marketability, but which for some reason did not draw expressions of interest, may continue to be held for the Departments' disposition. Only those properties not deemed high grade, and not conveyable for public benefit purposes, such as airports or schools, can be readily acquired at low or no cost by affected localities. While the

law's property disposal requirements cannot be changed through regulation to enable easier, less expensive acquisition of high value/readily marketable facilities, the means by which the Military Departments engage affected communities can and should be more specifically spelled out.

Recommendation: Standards need to be developed that ensure: (a) that there is adequate public participation in the Military Departments' decisions about the use of these first-class facilities, (b) that local zoning and land use plans will not be overridden, (c) that the facility will not be used in a manner that will interfere with other local economic development objectives, and (d) that the potential private offerers' plans will be consistent with other federal authorities bearing on land use, economic development, and related issues. In addition, the rule should set out considerations to ensure that the Military Departments' decisions about the reuse of these high value facilities are not considered in isolation from other community interests and concerns.

3. The Local Redevelopment Plan. Just as the rule lacks adequate regulation of the manner in which the Military Departments conduct the job-centered property disposal process, it also neglects to provide adequate guidance to communities in formulating the Local Redevelopment Plan. Defense Department officials, in responding to complaints about the lack of this guidance and redevelopment authorities, have claimed that they do not want the federal government to dictate decisions to affected local governments. This response confuses helping to plan and reach a good decision with dictating the decision itself. We are concerned about setting up a coherent and comprehensive planning and decision-making process.

Recommendation: The rule should outline the framework for local redevelopment planning so that each locality can have confidence that it is receiving equal treatment and consideration within the national base closing process. More definitive guidance and direction thus provides protection for each community as it develops plans for its economic future.

In addition, a more complete rule will provide each community with the information it needs to produce the best possible plan to meet its own needs and fulfill its vision. The goal of a more complete rule is not to establish a means for the federal government to determine what a community's vision for its economic future should be. Rather, the goal is to provide a community with the best opportunity to develop the best possible plan for that future.

Recommendation: The federal government has already established substantive planning direction for federal programs in other Departments, most notably HUD and the Department of Transportation. The Department of Defense should carefully consult these planning requirements in refining its base closing rules.

4. Coordination with other federal programs. **Recommendation:** The rule should make clear to local redevelopment authorities that their plans should be consistent with the requirements of ISTEA and the Consolidated Planning Process established by HUD, lest they develop plans that fail to consider these other required federal planning elements.

5. Citizen participation. **Recommendation:** The rule should contain explicit provisions for citizen participation in the development of the redevelopment plan. These provisions should go beyond the traditional public hearing model, to include public forums, consensus-building processes, early involvement of affected parties in the development of options and decisions, ready access of the public to information and data, and broad outreach requirements to the

community at large. Again, experience gained under ISTEA public participation requirements would provide useful guidance.

6. Coordinated strategy. Recommendation: The rule should encourage interdisciplinary and coordinated approaches so that the redevelopment plan will not consist of a series of piecemeal projects and activities but will instead represent a coordinated strategy. For example:

- (a) The rule should require coordination among the redevelopment authority and other arms of the local government, including the local governing body, and regional interests. In some cases, closed military facilities border several communities and affect the economies of others. Regional issues, including the interplay of labor supplies, affordable housing, and adequacy of transportation facilities, should be taken into account.
- (b) The redevelopment plan should be required to describe its impact on other aspects of the local economy. The rules should attempt to discourage, for example, plans for the reuse of a military facility that would have the effect of siphoning off investment in a struggling downtown area that has just begun to turn itself around.
- (c) The rule should include guidance on applying sound planning practices and good urban design principles.

7. Non-federal government assistance. Recommendation: The rule should guide redevelopment authorities to consider the availability of non-federal public resources and their integration into reuse plans.

8. Benchmarks. A well thought out and feasible redevelopment plan will provide readily identifiable benchmarks that permit progress to be measured. Conversely, failure to reach the benchmarks provides an alert that plans may need to be revised. A plan which does not easily translate into performance benchmarks is critically flawed.

Recommendation: The rule should require that redevelopment authorities establish benchmarks and standards against which their plans can be measured for performance.

Conclusion

The rule evinces sensitivity to the plight of communities faced with the closing of a military facility, which may have been the linchpin of economic prosperity for decades. In fact, in some places, the existence of the military facility may have been the principal reason for the continued existence of the host community.

The rule must recognize the unique nature of closed military facilities. Often self-contained communities with restricted access for the larger public, these facilities are now expected to be integrated smoothly into the daily life of their host localities. It is not an easy or simple process. A rule with sufficient guidance and direction on how to go about preparing a successful reuse plan will be of immense help to affected communities, will ensure that closed facilities continue to be strong economic assets, and will fulfill the federal objective of managing effectively the redirection of the defense establishment in the post-Cold War era.

Village of

GLENVIEW

1054 7/6

TELEPHONE
708-724-1700
FAX 708-724-0916



1225 WAUKEGAN ROAD
GLENVIEW, ILLINOIS 60025-3071

July 1, 1994

Mr. Joshua Gotbaum
Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20103-3300

Dear Mr. Gotbaum:

Attached please find comments on Interim Rules implementing Title XXIX of the National Defense Authorization Act for FY94. The Glenview Naval Air Station Community Reuse Planning Group's main objection with the Interim Rules deals with the Job Centered Property Disposal section. You will note that the recommendation from our community is to eliminate all references to Job Centered Property Disposal. If, in the final analysis, that is not possible, it is our belief that local communities which are organized and have the ability to generate and implement a reuse plan should be granted an economic development conveyance prior to the Department of Defense seeking to market and sell the property. This process will lead to more rapid redevelopment and job creation, which allows local communities to recover from a base closure even more quickly.

Thank you for this opportunity to provide input into the policy-making process regarding the Pryor Amendment. We look forward to a cooperative and successful reuse process.

Sincerely,

Nancy L. Firfer
Village President/Chairperson, GNAS
Community Reuse Planning Group

il

cc: Capt. David Larson (OEA)
Capt. James C. Schultz (GNAS Commander)
Cdr. Don Owen (GNAS Transition Coordinator)
Paul T. McCarthy (Village Manager/Executive Director Community Reuse Planning Group)
Matthew D. Carlson (Asst. to the Village Manager/Asst. Executive Director, Community Reuse Planning Group)
Jane English (President, National Association of Installation Developers)
Madeline S. McGee (Chief Operating Officer, Trident's BEST Policy Committee)

GNAS Community Reuse Planning Group

COMMENTS ON THE INTERIM FINAL RULE

IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

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COMMENTS ON THE INTERIM FINAL RULE

IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: Entire document

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Paragraph:

Recommended Change:

Delete all references to the new "Job-Centered Property Disposal" process requiring the Military Department to identify properties with a ready market, conduct appraisals, and advertise for expressions of interest.

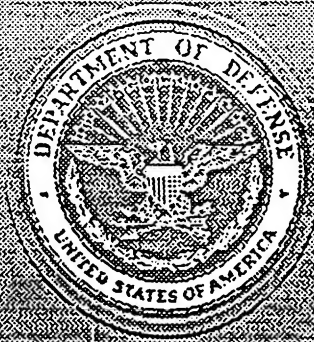
Why:

This new process is inconsistent with the intent of the Pryor Amendment, fails to achieve the stated goal of rapid job creation, and adds significant delays to the economic redevelopment of communities affected by base closures.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700



Revitalizing Base Closure Communities

Base Closure Community Assistance

(Title XXIX, National Defense
Authorization Act for 1994)

Federal Register Publication
of the
Interim Rule & Proposed Rule

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 90 and 91

(RINs 0790-AF61 and 0790-AF62)

Revitalizing Base Closure
Communities and Community
Assistance

AGENCY: Department of Defense.

ACTION: Interim final rule.

SUMMARY: The interim final rule promulgates guidance required by section 2903 of the National Defense Authorization Act for Fiscal Year 1994, and provides interpretive guidance concerning other changes to the base realignment and closure process generated by Title XXIX of the Act. This document also establishes policy and procedure, assigns responsibilities, and delegates authority under the President's Five-Part Plan, "A Program to Revitalize Base Closure Communities", July 2, 1993. Because such guidance must be issued and effective to enable the Department to perform various acts required by the law to be accomplished by May 30, 1994, such guidance is being issued as an interim final rule and is effective upon publication.

EFFECTIVE DATE: This document is effective April 6, 1994. Comments must be received by July 5, 1994.

ADDRESSES: Comments must be forwarded to the Office of the Assistant Secretary of Defense for Economic Security, Room 3D654, The Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Steven Kleiman or Frank Savat, telephone (703) 614-5356.

SUPPLEMENTARY INFORMATION: The Department of Defense is engaged in a major downsizing, resulting in less land and buildings needed to support defense missions. Congressional legislation in 1988 (Pub. L. 100-526) and 1990 (Pub. L. 101-510) provided for non-partisan Commissions to assess the closure recommendations of the Secretary of Defense, and make base

closure and realignment recommendations to the President and the Congress. The bases recommended for closure and realignment by the 1988, 1991, 1993 Commissions were all approved under this process. Another Commission will meet in 1995. As a result of the 1988, 1991 and 1993 actions, the Department of Defense is now in the process of closing 70 major installations throughout the United States.

Even in large cities a military base often represents a major employment center and a significant economic stimulus for the local economy. With its multimillion dollar payrolls a base closure can be a serious blow to the local community. The Department of Defense recognizes that the manner in which real and personal property at closing bases is disposed of can have a dramatic impact on the local community's prospects for economic recovery. In the past, the traditional property disposal methods focused on maximizing proceeds from the sale of real and personal property with little regard for enhancing the prospects for economic recovery in the community. Recognizing that the old way of doing business was not designed to dispose of major military installations in a way that would revitalize base closure communities, President Clinton announced, on July 2, 1993, a major new program to speed the economic recovery of communities where military bases are slated to close. In a sharp departure from the past, the Clinton Administration pledged to give top priority to early reuse of the base's valuable assets. Rapid redevelopment and the creation of new jobs in base closure communities are the goals of the new initiative.

In announcing the program, the President outlined the following five parts of his community reinvestment program:

- Jobs-centered property disposal that puts local economic redevelopment first.
- Fast-track environmental cleanup that removes needless delays while protecting human health and the environment.
- Transition coordinators at major bases slated for closure.
- Easy access to transition and redevelopment help for workers and communities.
- Larger economic development planning grants to base closure communities.

While the task of remaking the economic foundation of a community is never easy, a closed military base can be a community's single greatest asset in

charting a new future. An airfield, a port, or the land, buildings, furniture and equipment on a base can be a catalyst for new economic activity. The Administration's plan to make base property more affordable to communities for the purpose of job creation is a fundamental change. It allows communities that have viable plans for economic redevelopment to obtain property at prices within their means. The President's Five-Part Plan was an important step in steering the base closure and reuse process toward rapid job creation.

In announcing the community revitalization program, President Clinton recognized that existing Federal law required the Department of Defense to charge full price when closed bases will be used for job-creating economic development, yet it can transfer bases for free for a variety of "public" uses, including recreation, aviation, education and health. President Clinton stated that the Administration would seek to change the law, to enable the Department of Defense to transfer property for free or at a discount for economic development purposes, when community development plans meet a strict test for economic viability and job creation. Accordingly, the President asked the National Economic Council (NEC) an interagency coordinating arm of the White House and the Department of Defense to draft a proposal that puts economic development at the center of base closure asset disposition. The NEC convened an interagency working group that created the following framework for base disposal:

- Where a ready market exists, sell properties quickly for public or private development to speed up job creation.
- Where a ready market does not exist, make property available to the local redevelopment authority, without initial cost, for economic development.
- Share the net profits between the Department of Defense and the local redevelopment authority if a property conveyed without initial cost for economic development is subsequently sold.

The Congress, mindful of the need to reform this process, endorsed the President's plan by authorizing Title XXIX of Public Law 103-160, Base Closure Communities Assistance, the so-called "Pryor Amendment". Based largely on legislation sponsored by Senator Pryor, the provisions of Title XXIX provide the legal authority to carry out the President's plan by, among other things, authorizing conveyances of

and personal property at or below market value to local redevelopment authorities, and sharing of profits on subsequent sales and leases.

Public Law 103-160 required the Secretary of Defense to prescribe regulations to implement the provisions of the law. This is being accomplished under the Administrative Procedures Act which allows for the public to comment on the regulations. Due to the need to begin acting on the proposed regulations, the Department of Defense has issued them as interim final rules which allow actions at closing bases to begin before the regulations are made final after the public comment period. The section related to the conveyance of property in consideration of environmental restoration costs, is issued as a proposed rule and cannot be exercised until a final rule is published following public comment.

The following is a summary of the major elements of the rules.

1. Real Property Screening

When the Department of Defense no longer needs to retain real property at a closing base, the Department is required to dispose of the property in accordance with the prescribed screening process in the General Services Administration property disposal regulations and the new expedited process authorized in Title XXII. This process permits DoD entities, other Federal Agencies and homeless providers to identify property they would like to acquire when the base closes.

The screening process for real property requires the Department of Defense to identify first what it needs to retain. Any property excess to the Department of Defense is then made available to other Federal Agencies. Property not needed by other Federal Agencies is then identified as surplus and reported to the Department of Housing and Urban Development (HUD) for a determination of suitability for homeless use and publication of such properties in the Federal Register. Property that has no homeless interest, as determined by the Department of Health and Human Services (HHS), will then be available for transfer by either direct sale to the public, negotiated conveyance to the local redevelopment authority, public benefit conveyances for airports, schools, ports, etc., or the new economic development conveyance discussed in paragraph 5. of this summary. The Military Departments will work with the other Department of Defense Components, Federal Agencies, homeless providers and reuse planners, early in the closure process, to sort out these requests. This new process will

provide for the early identification of property which will become available for reuse. This information is critical to the local redevelopment authority's ability to design a realistic redevelopment plan. Agreement with proposed uses, other than for McKinney Act homeless use, is at the discretion of the Military Departments who have been delegated disposal authority.

2. McKinney Act Screening

The Stewart B. McKinney Homeless Assistance Act is a statute designed to permit recognized providers of assistance to the homeless to receive a high priority in acquiring unneeded land and buildings on Federal properties. Buildings and land on closing bases provide excellent opportunities for homeless providers to acquire the infrastructure they need to establish their programs. This section of the interim final rule describes the new process, specifically tailored for base closure properties, that will expedite the screening process with homeless providers and will result in the early identification of their needs. The expedited screening process will be pursued in a proactive manner. The Military Departments will work with communities to identify eligible entities and conduct timely outreach seminars to educate homeless providers with respect to the land and buildings that will be made available and the process for making a formal application to HHS to acquire such land and buildings. The early identification of homeless assistance requirements will permit communities to develop reuse plans that fully accommodate homeless needs, while permitting early identification of the remaining property for quick sale to create jobs, a Federally-sponsored public benefit conveyance, or conveyance to a local redevelopment authority for economic development purposes.

3. Local Redevelopment Plan

The early formation of a local redevelopment authority is critical to the successful reuse of the base. The primary focus of the local redevelopment authority should be developing a comprehensive local redevelopment plan. This plan should embrace the range of feasible reuse options that will result in rapid job creation. The local redevelopment plan will generally be used as the proposed action when the disposing Military Department conducts the environmental analyses required by the National Environmental Policy Act (NEPA). At the conclusion...

4. Jobs Centered Property Disposal

The new property disposal process described in this section and in paragraphs 5. and 6. of this summary, is designed to rapidly create new jobs in most cases, that will occur through conveyances for economic development, without initial cost, as described in paragraph 5. However, in a few cases, an entire base or a substantial portion of it will have a high value and hence a ready market for development. In such cases, market sale of the property may be the most effective way to rapidly create new jobs.

The Military Department will identify properties having a ready market and begin the appraisal process as soon as possible but not later than 6 months after completion of the new expedited McKinney Act screening process in paragraph 2. of this summary. The appraisal should take into consideration uncertainties and the associated risks in property development as well as the impact of the base closure on market conditions. Moreover, the appraisal will reflect the most likely range of uses consistent with local interests rather than highest end-use.

To assist in determining the estimated fair market value, the Military Departments will solicit for expressions of interest for the entire or a substantial portion of the base for a period no longer than 6 months. The results will be shared with the local redevelopment authority. Expressions of interest will be solicited simultaneously with other screening and disposal actions and will not cause a delay in the disposal process. The Military Department will analyze each expression of interest and determine if it represents a reasonable proposal that is likely to lead to rapid development and job creation. If after consulting extensively with the local community, the Military Department makes a favorable determination, the Department may decide to offer the property for sale. The local redevelopment authority will be promptly notified of the decision and may challenge the decision. If the Military Department nevertheless decides to proceed with the sale, potential bidders will be encouraged to work with the local redevelopment authority so that their proposals are compatible with the local redevelopment plan. Identifying a substantial portion of the base for sale, however, does not preclude the community's acquisition of the property through a negotiated sale with the Department of Defense.

~~In the event that a base or substantial portion thereof is identified as potentially valuable but does not sell due to the absence of a ready market, the property will then be available for conveyance for public benefit or economic development purposes.~~

~~Throughout this process, the Military Departments will make maximum effort to give community considerations a high priority.~~

5. Economic Development Conveyances

Closing military bases often have a great deal of land that may not be readily developable or marketable due to its location. Additionally, closing bases often have buildings that may need to be demolished in order to encourage redevelopment and economic revitalization. Historically, the process of selling bases, or parts thereof, for fair market value has been time consuming and the proceeds from the few sales of base closure properties have been less than originally anticipated. In the past, the law permitted the Department of Defense to convey property at a discount of up to 100 percent (free of charge) for specific public purposes such as health, aviation, recreation, and education—but not for economic development. The new authority permits the DoD to convey land and buildings to redevelopment authorities initially for free, after it is determined that the base, or significant portions thereof, cannot be sold in accordance with the rapid job creation concept. Such conveyances may help induce a market for the property, thereby, enhancing economic recovery. Redevelopment authorities requesting an economic development conveyance, shall submit a simple written request containing four basic elements as described in the interim rule. Generally, installations will be conveyed at no initial cost with a recoupment provision that will permit the Department of Defense to share in any future profits should the base be later leased or sold. Bases in rural areas shall be conveyed under this authority at no cost and with no recoupment if they meet the standards as detailed in the interim rule. The conveyance for economic development should be used by local redevelopment authorities to gain control of large areas of the base, not just individual buildings. The income received from some of the higher value property should help offset the maintenance and marketing costs of the less desirable parcels. In order for this conveyance to spur redevelopment, large parcels must be used to provide an income stream to assist the long term development of the property.

6. Profit Sharing

When real property is conveyed as described in paragraph 5. of this summary, DoD shall generally share in the division of future profits should the property be subsequently sold or leased. The division of profits shall be based on net profits and the share shall generally favor the local redevelopment authority. There shall be a 15-year time limit on the share of the profits. The government's portion of the receipts from the profit shall not exceed the estimated fair market value of the property at the time of conveyance to the local redevelopment authority.

7. Leasing of Real Property

Leasing of real property early in the reuse process is an effective way to quickly attract new jobs to replace those that have been lost by the base closing. In the past, the requirement to lease at fair market value discouraged the creation of new jobs. The new leasing process, at less than fair market value, will provide new incentives for redevelopment authorities and businesses alike to spur job creation and speed economic redevelopment. Inasmuch as the Department cannot convey contaminated property until clean-up measures are in place, leasing is often the only means to allow suitable economic reuse to occur on substantial portions of closing bases.

8. Personal Property

Personal property located on closing bases is often very useful to the redevelopment of the real property. This section of the interim final rule outlines procedures to allow transfer of personal property with the real property in many cases. It provides for completing an inventory soon after the base is approved for closure and consultation with local officials. This consultation may include a walkthrough of the base to familiarize local officials with potentially available property. The community can then identify the personal property it wishes to retain in its redevelopment plan. The Department of Defense will keep a great deal of the personal property at the base while the redevelopment plan is being put together. Only valid exemptions will be made to this freeze, usually involving specific military requirements or property which the base does not own. Emissions trading procedures will be issued separately and are not covered by the interim final rule.

9. Minimum Level of Maintenance and Repair To Support Non-Military Purposes

Facilities and equipment located on closing bases are often important to the eventual reuse. This section of the interim rule below provides procedures to protect their condition while the redevelopment plan is being put together. The level of maintenance will be determined in consultation with the redevelopment authority.

DoD Directive 4165.aa¹ (32 CFR Part 90) establishes basic policies to carry out the President's plan and the Base Closure Community Assistance Act. DoD Instruction 4165.bb² (32 CFR Part 91) provides procedural guidance for implementation. In addition to property disposal, the document addresses fast-track environmental cleanup and increased economic development planning support for communities. It provides for on-site transition coordinators, responsible directly to the Secretary of Defense, at major closing bases in order to minimize red tape and keep environmental cleanup and base disposal activities on a fast track.

The Department of Defense has determined that this interim rule is not a significant regulatory action, as defined by Executive Order 12866. The rule does not:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. It provides for transfer of paid-for federal installations no longer needed for economic development purposes. This will benefit the economy and the communities in which the closing bases are located.

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof;

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12886.

It has been certified that this interim final rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because the interim final rule will not have a significant economic impact on a

¹ Draft document. When signed, this document will be available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

² See footnote 1.

substantial number of small entities. The primary effect of the interim final rule will be to reduce the burden on local communities of the Government's property disposal process at closing military installations and to accelerate the economic recovery of the relatively small number of communities that will be affected by the closure of nearby military installations.

The rule is not subject to the Paperwork Reduction Act because it imposes no obligatory information requirements beyond internal DoD use.

List of Subjects in 32 CFR Parts 90 and 91

Community development,
Government employees, Military personnel, Surplus Government property.

Accordingly, Title 32, Chapter I, Subchapter C, is amended as follows:

1. Part 90 is added to read as follows:

PART 90—REVITALIZING BASE CLOSURE COMMUNITIES

Sec.

- 90.1 Purpose.
- 90.2 Applicability.
- 90.3 Definitions.
- 90.4 Policy.
- 90.5 Responsibilities.

Authority: 10 U.S.C. 2687 note.

§ 90.1 Purpose.

This part:

(a) Establishes policy and assigns responsibilities under the President's Five-Part Plan, "A Program to Revitalize Base Closure Communities",¹ July 2, 1993, to speed the economic recovery of communities where military bases are slated to close.

(b) Implements the National Defense Authorization Act for fiscal year 1994, Title XXIX, 107 Stat. 1909.

§ 90.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

§ 90.3 Definitions.

(a) *Closure*. All missions of the base have ceased or have been relocated. All personnel (military, civilian and contractor) have either been eliminated or relocated, except for personnel required for caretaking and disposal of

the base or personnel remaining in authorized enclaves.

(b) *Base realignment and closure cleanup plan*. A plan for the expeditious environmental cleanup necessary to facilitate conveyance of the property to communities for economic redevelopment.

(c) *Base realignment and closure cleanup team*. A team established for each DoD closing or realigning base where property is available for transfer to the community. The team has the authority, responsibility, and accountability for environmental cleanup programs at these installations, emphasizing those actions which are necessary to facilitate reuse and redevelopment.

(d) *Realignment*. Any action that both reduces and relocates functions and DoD civilian personnel positions, but does not include a reduction in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar cause. A realignment may terminate the DoD requirement for the land and facilities on part of an installation. That part of the installation shall be treated as "closed" for purposes of this part.

(e) *Redevelopment authority*. Any entity, including an entity established by a State or local government, recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation and for directing implementation of the plan.

§ 90.4 Policy.

It is DoD policy to:

(a) Help communities impacted by base closures achieve rapid economic recovery through effective reuse of the assets of closing bases—more quickly, more effectively and in ways based on local market conditions and locally developed reuse plans—by implementing the President's Five-Part Plan that encourages:

(1) Transferring real and personal property expeditiously to local redevelopment authorities and in ways that enhance economic development and job creation or other public benefits. This can best be accomplished by:

(i) Making transfers of property to a redevelopment authority for economic development affordable, when necessary to foster community redevelopment plans. The use of existing public benefit conveyances should be considered, where appropriate, before the use of a public benefit conveyance for economic development.

(ii) Accelerating the property screening process early in the disposal

process to determine other potential Federal uses of the property, including the identification of the needs of homeless providers. This will determine how much of the property is available for early economic development and/or other community reuse.

~~(iii) Informing communities, as early as possible after the base closure decision is final, if an installation will be considered for "economic development" conveyances under Pub. L. No. 103-160, Title XXIX and will not be offered for sale, instead. Such decisions shall be based on a determination that the existence of a ready market for the property indicates that public or private developers can not be relied upon as the preferable mechanism to spur economic redevelopment and the creation of new jobs.~~

(iv) Encouraging interim leases at less than the estimated fair market value in order to facilitate State or local economic redevelopment efforts.

(v) Delegating authority to approve interim leases and simple land transfers.

(vi) Considering the personal property requirements of the community redevelopment plan when making decisions on the disposition of base equipment.

(2) Ensuring fast-track environmental cleanup of closing bases to permit earlier determination of property suitable for either conveyance or lease. The key elements of this initiative are to:

(i) Establish a base realignment and closure cleanup team composed of members from the Department of Defense, the Environmental Protection Agency and State regulatory agencies, at every base where property is available for transfer and reuse. The team shall prepare the base realignment and closure cleanup plan and make decisions to expedite the process.

(ii) Quickly identify and document uncontaminated real property parcels to permit timely reuse.

(iii) Identify opportunities to convey property quickly to those willing to pay the cost of cleaning up the contaminated property.

(iv) Ensure analyses required by the National Environmental Policy Act (Pub. L. 91-190; 10 U.S.C. 4332 et. seq.) process are produced in a timely manner.

(v) Establish procedures for identifying and documenting parcels of real property that are environmentally suitable for lease, even if needed mitigation precludes conveyance.

(vi) Improve public involvement in the environmental cleanup by establishing and seeking public

¹ Document available from the Office of the Assistant Secretary of Defense (Economic Security), Pentagon, Washington, DC 20301.

participation in Restoration Advisory Boards.

(3) Providing full time base transition coordinators at major installations slated for closure or substantial realignment. The principal functions of the coordinators shall be to:

(i) Assist in cutting through red tape on property disposal.

(ii) Assist in keeping the environmental cleanup on a fast track.

(iii) Assist the DoD Office of Economic Adjustment (OEA) in helping communities identify sources of Federal assistance for developing and implementing economic redevelopment plans.

(4) Providing easy access to transition and redevelopment help for workers and communities by targeting major sources of Federal funding assistance to base closure communities.

(5) Providing larger economic development planning grants to base closure communities. Planning grants should be approved quickly. The Department of Defense's Office of Economic Adjustment will move beyond the traditional role of providing grants for planning to helping communities transition from planning to implementation by funding a portion of the staff required for implementation of the local redevelopment plan.

(b) Follow the following framework in implementing Title XXIX of Pub. L. 103-160:

~~(1) Where a ready market exists, complete screening and then sell properties quickly for public or private development to speed up job creation.~~

~~(2) Where a ready market does not exist, make property available to the local redevelopment authority without initial consideration for economic development.~~

~~(3) Share the net profits between the Department of Defense and the local redevelopment authority if a property conveyed without initial consideration for economic development is subsequently leased or sold.~~

(c) This regulation does not create any rights or remedies and may not be relied upon by any person, organization, or other entity to allege a denial of any rights or remedies other than those provided by Pub. L. 103-160, Title XXIX.

§ 90.5 Responsibilities.

(a) The Under Secretary of Defense for Acquisition and Technology shall issue DoD Instructions as necessary, to further implement the President's Five-Part Plan and applicable public law, and shall monitor compliance with this part. All authorities of the Secretary of Defense in Pub. L. 103-160, Title XXIX,

in section 2905 of Pub. L. 100-526, Title II, and in section 204 of Pub. L. 101-510, Title XXIX are hereby delegated to the Under Secretary of Defense for Acquisition and Technology and may be redelegated.

(b) The Heads of the DoD Components shall advise personnel with responsibilities related to base closures of the policies set forth in this directive.

2. Part 91 is added to read as follows:

PART 91—REVITALIZING BASE CLOSURE COMMUNITIES—BASE CLOSURE COMMUNITY ASSISTANCE

Sec.

91.1 Purpose.

91.2 Applicability.

91.3 Definitions.

91.4 Policy.

91.5 Responsibilities.

91.6 Delegations of authority.

91.7 Procedures.

Appendix A to Part 91—Flow Chart for Base Closure Community Assistance

Appendix B to Part 91—Closure and Transition Timeline for a Notional BRAC 1993 Base That Closes on September 30, 1997

Authority: 10 U.S.C. 2687 note.

§ 91.1 Purpose.

This part prescribes procedures to implement "Revitalizing Base Closure Communities" (Part 90), the President's five-part community reinvestment program,¹ and real and personal property disposal to assist the economic recovery of communities impacted by base closures. The expeditious disposal of real and personal property will help communities get started with reuse early and is therefore critical to timely economic recovery.

§ 91.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

§ 91.3 Definitions.

(a) *Base Closure Law*. The provisions of Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Pub. L. 100-526; 10 U.S.C. 2687 note), or The Defense Base Closure and Realignment Act of 1990 (Part A of Title XXIX of the Pub. L. 101-510; 10 U.S.C. 2687 note).

(b) *Closure*. All missions of the base have ceased or have been relocated. All

¹ Document available from the Office of the Assistant Secretary of Defense (Economic Security), Pentagon, Washington, DC 20301.

personnel (military, civilian, and contractor) have either been eliminated or relocated except for personnel required for caretaking and disposal of the base or personnel remaining in authorized enclaves.

(c) *Consultation*. Fully explaining and discussing an issue and carefully considering objections, modifications, and alternatives; but without a requirement to reach agreement.

(d) *Date of approval*. The date on which the authority of Congress to disapprove Defense Base Closure and Realignment Commission recommendations for closures or realignments of installations expires under Title XXIX of P.L. 101-510, as amended.

(e) *Excess property*. Any property under the control of a Military Department that the Secretary concerned determines is not required for the needs of the Department of Defense. Authority to make this determination rests with the Military Departments after screening the property with the other Military Departments.

(f) *Realignment*. Any action that both reduces and relocates functions and DoD civilian personnel positions, but does not include a reduction in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar cause. A realignment may terminate the DoD requirement for the land and facilities on part of an installation. That part of the installation shall be treated as "closed" for this document.

(g) *Redevelopment authority*. Any entity, including an entity established by a State or local government, recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation and for directing implementation of the plan.

(h) *Rural*. An area outside a Metropolitan Statistical Area.

(i) *Surplus property*. Any excess property not required for the needs and the discharge of the responsibilities of Federal Agencies. Authority to make this determination, after screening with all Federal Agencies, rests with the Military Departments.

(j) *Vicinity*. The county in which the installation is located and the adjacent counties. An incorporated municipality shall be deemed to be a county for this purpose, when, under State law, it is not part of a county.

§ 91.4 Policy.

It is DoD policy to help communities affected by base closures achieve rapid economic recovery through effective

reuse of the assets of closing bases—more quickly, more effectively and in ways based on local market conditions and locally developed reuse plans. This will be accomplished by:

~~(a) Selling properties quickly for public or private development to speed-up job creation where a ready market exists.~~

~~(b) Making property available without initial consideration for economic development where a ready market does not exist.~~

~~(c) Sharing the net profits between the DoD and the local redevelopment authority if a property conveyed without initial consideration for economic development is subsequently sold or leased.~~

§ 91.5 Responsibilities.

(a) The Assistant Secretary of Defense for Economic Security, after coordination with the General Counsel of the Department of Defense and other officials as appropriate, may issue such guidance and instructions as may be necessary to implement Laws, Directives and Instructions on the retention or disposal of real and personal property at closing or realigning bases.

(b) The Heads of the DoD Components shall ensure compliance with this part and guidance issued by the Assistant Secretary of Defense for Economic Security on revitalizing base closure communities.

§ 91.6 Delegations of authority.

(a) The authority provided by sections 202 and 203 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 483 *et seq.*) for disposal of property at closing and realigning bases has been delegated by the Administrator, GSA, to the Secretary of Defense by delegations dated March 1, 1989; October 9, 1990; and, September 13, 1991.² Authority under these delegations has been previously redelegated to the Secretaries of the Military Departments, who may redelegate further.

(b) Authorities delegated to the Under Secretary of Defense for Acquisition and Technology by 32 CFR 90.5 are hereby redelegated to the Secretaries of the Military Departments, unless otherwise provided within this part. These authorities may be redelegated further.

§ 91.7 Procedures.

(a) Real property screening.

(1) When the Department of Defense no longer needs to retain real property,

the Department is required to dispose of the property in accordance with the prescribed screening process in the General Services Administration property disposal regulations and the expedited process described in this part. This process permits DoD entities, other Federal Agencies and homeless providers to identify property they would like to acquire when the base closes. The Secretary concerned will work with the other DoD Components, Federal Agencies, homeless providers and reuse planners, early in the closure process, to sort out these requests. This process will provide for the early identification of property which will become available for reuse that is critical to the local redevelopment authority's ability to develop a realistic reuse plan.

(2) The Military Departments should complete the internal DoD real property screening of closing and realigning base property:

(i) By April 1, 1994, for 1988, 1991 and 1993 closures and realignments.

(ii) Within 4 months of the date of approval of the 1995 closures and realignments.

(3) Military Departments should seek local redevelopment authority input in making determinations on the retention of property and should consider their input, if provided. Transfer of real property at closing and realigning bases between any of the Military Departments, or retention of real property at a closing base by a Military Department, must be approved by the Assistant Secretary of Defense for Economic Security, unless such a transfer has already been approved by the Secretary of the Military Department concerned.

(4) Formal screening of real property excess to the DoD with other Federal Agencies must be completed:

(i) By June 1, 1994, for 1988, 1991, and 1993 closures and realignments unless the community requests a postponement of the surplus determination as provided in paragraph (a)(7) of this section.

(ii) Within 6 months of the date of approval of the 1995 closures and realignments unless the community requests a postponement as provided in paragraph (a)(7) of this section.

(5) These timeframes afford Federal Agencies sufficient time to assess their needs, submit initial expressions of interest to the Department of Defense, and apply for the property. During this period, Agencies sponsoring public benefit conveyances should also consider the suitability for such purposes. The Military Departments should provide other Federal Agencies

as full and complete information as practicable on the property in the Notice of Availability. Requests for transfers of property submitted by other Federal Agencies will normally be accommodated. Decisions on the transfer of property to other Federal Agencies shall be made by the Military Department concerned in consultation with the local redevelopment authority.

(6) Military Departments should make the notices of availability available to the local redevelopment authorities, State and local governments.

(7) Within the 6 month screening period in paragraph (a)(4) of this section, the Military Departments shall consult with the local redevelopment authority and make appropriate final determinations whether a Federal Agency has identified a use for, or shall accept transfer of, any portion of the property. If no Federal Agency requests the property, the property shall be declared surplus. However, the local redevelopment authority may request the Military Department concerned to delay this final surplus declaration. All requests for delay must be in writing and made before May 1, 1994 for 1988, 1991 and 1993 closures and realignments and within 5 months of the approval of the 1995 base closures and realignments. If there is a Federal Agency request for transfer, the Secretary concerned may postpone the determination to transfer and the Secretary may also postpone the determination of surplus for all or any part of the property at the installation for such period as the Secretary concerned determines is in the best interest of the communities affected by the closure of the installation.

(8) Screening of real property with State and local government agencies shall take place concurrently with McKinney Act screening. The screening notice should state:

Uses to assist the homeless shall take precedence unless the Secretary concerned or the Secretary of Health and Human Services (HHS) determines that a competing request under 40 U.S.C. 484(k) is so meritorious and compelling as to outweigh the needs of the homeless.

(9) Withdrawn public domain lands are those lands which have been transferred from the Department of Interior to a Military Department for its temporary use.

(i) These lands on closing or realigning bases are to be returned to the Secretary of Interior when the Secretary of the Military Department concerned no longer has need for these lands, if they are still suitable for the programs of the Secretary of Interior.

² These documents available from the Office of the Assistant Secretary of Defense (Economic Security), Pentagon, Washington, DC 20301.

(ii) The Military Department concerned will notify the Secretary of Interior, normally through the Bureau of Land Management (BLM), when withdrawn public domain lands are included within an installation to be closed.

(iii) The Bureau of Land Management will screen these lands within the Department of Interior to determine if these lands are suitable for return to the Department of Interior.

(iv) If the lands are not suitable for the programs of the Secretary of Interior, the Bureau of Land Management will so notify the Military Department and state that these lands should be processed as the other real property on the base.

(v) The Military Department will notify the Bureau of Land Management that it concurs with the determination and will proceed in accordance with the real property screening procedures described in this section.

(b) McKinney Act Screening.

(1) The Stewart B. McKinney Homeless Assistance Act, as amended (42 U.S.C. 11301), is a statute designed to permit HHS-approved providers of assistance to the homeless to receive a high priority in acquiring unneeded land and buildings on Federal properties. Buildings and land on closing bases provide excellent opportunities for homeless providers to acquire the land and buildings they need to establish their programs. This section describes the new process specifically tailored for base closure properties that will expedite the screening process with homeless providers and will result in the early identification of their needs. The Military Departments will work with communities to identify eligible entities and conduct timely outreach seminars to educate homeless providers with respect to the land and buildings that will be made available and the process for making a formal application to the Department of Health and Human Services (HHS). The early identification of homeless assistance requirements for land and buildings at closing bases will permit communities to develop reuse plans that fully accommodate homeless needs, while permitting early identification of the remaining property for either quick sale for job creation, a federally sponsored public benefit conveyance or conveyance to a local redevelopment authority for economic development purposes.

(2) The Department of Housing and Urban Development (HUD) is required to publish by February 15 of each year a list of all the properties which were published in accordance with the McKinney Act in the previous calendar

year. For the purpose of reporting properties to HUD pursuant to the new expedited McKinney screening process described in this section, the Military Departments should report only those properties which remain available as of the reporting date. For the purposes of the new expedited McKinney Act screening process:

(i) Properties listed by HUD in the annual report for which an expression of interest has been received by HHS from a homeless provider, but a final HHS determination has not yet been made, shall be reported for screening under the new procedures in paragraphs (b) (3) through (11) of this section.

(ii) Properties listed by HUD in the annual report for which no expression of interest has been received by HHS from a homeless provider and for which the Department of Defense has received no expression of interest or bona fide offer in accordance with the provisions of section 501(c)(4)(C) of the McKinney Act, shall be reported in accordance with the procedures in paragraphs (b) (3) through (11) of this section.

(iii) Properties listed by HUD in the annual report for which no expression of interest has been received by HHS from a homeless provider and for which the Department of Defense has received an expression of interest or bona fide offer in accordance with the provisions of section 501(c)(4)(C) of the McKinney Act, shall not be reported in accordance with the procedures in paragraphs (b) (3) through (11) of this section.

(iv) 1988 and 1991 base closure and realignment properties which remain available shall be reported to HUD in accordance with the new expedited procedures in paragraphs (b) (3) through (11) of this section.

(3) Under the new expedited McKinney Act screening process, the Military Departments shall sponsor a workshop or seminar in communities having closing or realigning bases before reporting to HUD. All available property at closing and realigning bases that will become surplus to Federal Agency needs will be reported to HUD:

(i) By June 1, 1994, for the 1988, 1991, and 1993 closures and realignments, unless the community requests a postponement of the declaration of surplus under paragraph (a)(7) of this section.

(ii) Within 6 months of the date of approval of the 1995 base closures and realignments unless the community requests a postponement of the declaration of surplus under paragraph (a)(7) of this section.

(4) HUD shall make a determination of the suitability of each property to assist the homeless in accordance with

the McKinney Act. Within 60 days from the date of receipt of the information from the Department of Defense, HUD shall publish a list of suitable properties that shall become available when the base closes.

(5) Providers of assistance to the homeless shall then have 60 days in which to submit to HHS expressions of interest in any of the listed properties. If a provider indicates an interest in a listed property, it shall have an additional 90 days after submission of its written notice of interest to submit a formal application to HHS, a period which HHS can extend. HHS shall then have 25 days after receipt of a completed application to review and complete all actions on such applications.

(6) During the new expedited McKinney Act property screening process (from 60 to 175 days following Federal Register publication, as appropriate), disposal agencies shall take no final disposal action or allow reuse of property that HUD has determined suitable and that may become available for homeless assistance, unless and until:

(i) No timely expressions of interest from providers are received by HHS.

(ii) No timely applications from providers expressing interest are received by HHS.

(iii) HHS rejects all applications received for a specific property.

(7) If no provider expresses an interest to HHS in a property within the allotted 60 days, the Military Department should promptly inform the affected local redevelopment authority; the Governor of the State, the local governments, and Federal Agencies that support authorized public benefit conveyances, of the date the surplus property will be available for community reuse. The local redevelopment authority shall then have 1 year to submit a written expression of interest to incorporate the remainder of the property into its redevelopment plan.

(8) If there are expressions of interest by homeless assistance providers, but no application is received by HHS from such a provider within the subsequent 90-day application period (or within the longer application period if HHS has granted an extension), the Military Department should promptly inform the local redevelopment authority, the Governor of the State, and Federal Agencies that support authorized public benefit conveyances, of the date the surplus property will be available for community reuse. The local redevelopment authority shall then have 1 year to submit a written expression of interest to incorporate the remainder of

the property into its redevelopment plan for the base.

(9) If at any time during the 25 day HHS review period HHS rejects all applications for a specific property, the Military Department should promptly inform the local redevelopment authority, the Governor of the State, and Federal Agencies that support authorized public benefit conveyances, of the date the surplus property will be available for community reuse. The local redevelopment authority shall then have 1 year to submit a written expression of interest to incorporate the remainder of the property into its redevelopment plan for the base.

(10) During the allotted 1-year period for the local redevelopment authority to submit a written expression of interest for the property, surplus properties not already approved for homeless reuse shall not be available for homeless assistance, unless such homeless assistance is included in the local redevelopment authority's plan. The surplus properties will also not be advertised by HUD as suitable during these 1-year periods. The surplus property may be available for interim leases to any entity, including local redevelopment authorities as deemed appropriate by the Secretary of the Military Department concerned.

(11) If the local redevelopment authority does not express in writing its interest in a specific property during the allotted 1-year period, the disposal agency shall again notify HUD of the date of availability of the property for homeless assistance. HUD may then list the property in the Federal Register as suitable and available after the base closes following the previous McKinney Act procedures.

(12) The listing of base closure property from the 1991 and subsequent rounds of base closures reported to HUD shall contain the following statement:

The properties contained in this listing are closing or realigning military installations. This report is being accomplished pursuant to Pub. L. 103-160, section 2905(b). In accordance with section 2905(b), this property is subject to a one-time publication under the McKinney Act, after which property not provided to homeless assistance providers will not be published again unless there is no expression of interest submitted by the local redevelopment authority in the one-year period following the end of the McKinney screening process pursuant to this publication.

(13) The list of 1988 base closure properties that will be reported to HUD shall contain the same statement as paragraph (b)(12) of this section, and

shall refer to section 2905(a) of the Act (107 Stat. 1916).

(c) *Local redevelopment plan.*

(1) The early formation of a redevelopment authority is critical to the successful reuse of the base. The primary focus of the redevelopment authority should be developing a comprehensive local redevelopment plan. This plan should embrace the range of feasible reuse options that will result in rapid job creation. The local redevelopment plan will generally be used as the proposed action in conducting environmental analyses required by the National Environmental Policy Act of 1969 (NEPA), (42 U.S.C. 4332 et seq.).

(2) Although the statute only requires the local redevelopment authority to submit a written expression of interest within 1 year after the date the property is released from McKinney Act screening, the local redevelopment plan should be prepared within that 1 year period. The plan should at a minimum identify:

(i) Parcels recommended to be transferred to other Federal Agencies (whether or not a specific request for such transfer was made by the Agency during the screening period) and their intended uses.

(ii) Parcels recommended to be transferred or conveyed for uses such as homeless assistance, public benefit purposes, or other qualifying public purpose conveyance programs and their intended uses.

(iii) Parcels, and their intended uses, recommended to be conveyed by:

(A) Negotiated sale at estimated fair market value.

(B) Conveyance without initial consideration to local redevelopment authorities, with or without recoupment, as provided in this part.

(iv) The plan should discuss how it will enhance the prospects for economic development and job creation, if the redevelopment authority intends to request an economic development conveyance.

(d) *Jobs centered property disposal.*

(1) The new property disposal process described in this section and in paragraphs (e) and (f) of this section, which follow, is designed to rapidly create new jobs, either by taking advantage of a ready market for development of valuable property or by inducing a market through conveyances for economic development, initially without consideration. The procedures described below generally apply to 1993 and 1995 base closures and may not apply to 1988 and 1991 closures which may be well along in the disposal process.

(2) The Military Departments should identify properties with potential for rapid job creation and begin, as soon as possible, but not later than completion of the new expedited McKinney Act screening (paragraph (b) of this section), an appraisal or other estimate of the property's fair market value. Such appraisals or estimates should address a range of likely market values taking into account: feasible uses for the property; the uncertainties in property development; and, current market conditions (i.e., recognizing the state of the market after a closure announcement). The appraisals should not be based on the replacement cost of the properties, since they may not be readily adaptable for civilian use. Additionally, the appraisal should not be based on the highest and best use, but the most likely range of uses consistent with local interests. The above appraisal may be accomplished for 1988 and 1991 closures if it is determined that it would be beneficial to do so and will not delay the disposal process.

(3) To assist in the appraisal/estimation of fair market value of properties with a potential for rapid job creation, and to determine if interests exist in properties not originally identified for rapid job creation, the Military Departments shall, for 1993 and 1995 closures, advertise for expressions of interest in all or any substantial part of each closing installation. For the 1993 and 1995 closures, the Military Departments shall advertise at the completion of the new expedited McKinney Act screening process (see paragraph (b) of this section). The Military Departments may advertise for expressions of interest in all or any substantial part of each closing installation on the 1988 or 1991 closure lists if it is determined that it would be beneficial to do so and will not delay the disposal process.

(i) Advertisements for expressions of interest shall be open for 6 months. Expressions of interest received should detail the intended use, the site plan, the jobs estimated to be created, the schedule for development and hiring, and an evaluation of the worth of the land and buildings. Expressions of interest will be shared with the local redevelopment authority. Advertisements for expressions of interest will be conducted simultaneously with all other disposal actions and are not an additional step in the disposal process.

(ii) The Military Departments shall analyze each expression of interest and determine within 30 days of receipt if it is made in good faith and represents a

reasonable development proposal. If the Military Department decides that an expression of interest received demonstrates the existence of a ready market, the prospect of job creation, and offers proceeds consistent with the range of estimated fair market value, it may decide to offer the property for sale. The property proposed for sale shall promptly be publicly identified, and the redevelopment authority shall be notified. The redevelopment authority may request reconsideration of this decision under paragraph (d)(5) of this section. Potential offerors will be encouraged to work with the redevelopment authority so that their development goals will be compatible with the local redevelopment plan.

(iii) If a redevelopment plan has not been completed, the redevelopment authority will be encouraged to include the potential for sale of the property identified by the Military Department under paragraph (d)(3) of this section, in the plan. The DoD Component will evaluate whether the potential sale of the identified property is covered by any ongoing environmental analyses required by the National Environmental Policy Act (NEPA). Based on this evaluation, consideration can be given to integrating the potential sale into the existing analyses or preparing additional analyses required by law or otherwise deemed appropriate. The environmental impact statement shall, to the extent practicable, be completed within 12 months, or a Finding of No Significant Impact issued within 6 months, of the public announcement identifying the property proposed for sale.

(4) A few high value installations for which a ready market apparently exists may, nevertheless, not have generated any expressions of interest during the allotted 6 month period. Regardless, such installations provide an opportunity for private sector rapid job creation which should be pursued. In these cases, the Military Department, based on completed appraisals or other estimates of the fair market value, shall inform redevelopment authorities that the property is expected to be offered for sale and an economic development conveyance should not be anticipated. Redevelopment authorities shall be so informed as soon as possible, but not later than 6 months after completion of the McKinney Act screening process. In making these determinations, airport, port, and school property may be excluded if it appears that they are likely to be converted to public airports, ports or schools under existing public benefit conveyance programs. The determination that an installation will

be sold under paragraph (d)(4) of this section has 2 components:

(i) The property must have a high value.

(ii) There must be a ready market. Ready market means that offers to purchase at or near the estimated range of fair market value from the private sector covering all or most of the installation could be expected within 6 months of advertising the base for public sale.

(5) Within 60 days of the announcement by the Secretary of the Military Department concerned of the intention to sell property in accordance with paragraph (d)(3) or (d)(4) of this section, the authorized local redevelopment authority may request, in writing, that this determination be reconsidered. The Secretary shall consider the request, provide a final determination in writing to the local redevelopment authority and announce this determination publicly.

(6) Identification of an installation or property for sale under this section does not preclude a community's acquisition of property for the estimated fair market value.

(7) The provisions of this section may not be appropriate for some of the 1988 and 1991 base closures and realignments because these bases are so far along in the property disposal process that certain actions have been taken or agreed to that are inconsistent with the new procedures. In cases of 1988 and 1991 closures where this new property disposal process is considered not appropriate, the Secretary concerned shall request a waiver from the ASD(ES) before proceeding with the disposition of the property.

(e) Economic development conveyances.

(1) Closing military bases often have a great deal of land that may not be readily developable or marketable due to its location. Additionally, closing bases often have buildings that may need to be demolished in order to encourage redevelopment and economic revitalization. Historically, the process of selling bases, or parts thereof, for fair market value has been time consuming and the proceeds from the sales of base closure properties have been less than originally anticipated. In the past, the law permitted the Department of Defense to convey property at a discount of up to 100% (free of charge) for specific public purposes such as health, aviation, recreation, and education—but not for economic development. The new process that follows permits the DoD to convey land and buildings to redevelopment authorities with no consideration,

subject to recoupment, after it is determined that the base, or significant portions thereof, cannot be sold in accordance with the rapid job creation concept. Such conveyances may help induce a market for the property, thereby, enhancing economic recovery. Redevelopment authorities shall submit a simple written request containing four basic elements as described in paragraphs (e)(5)(i) through (e)(5)(iv) of this section. Generally, installations will be conveyed at no initial cost with a recoupment provision that shall permit DoD to share in any future profits should the base be later leased or sold. Bases in rural areas shall be conveyed under this authority with no recoupment if they meet the standards in paragraph (e)(6) of this section. The conveyance for economic development should be used by local redevelopment authorities to gain control of large areas of the base, not just individual buildings. The income received from some of the higher value property should help offset the maintenance and marketing costs of the less desirable parcels. In order for this conveyance to spur redevelopment, large parcels must be used to provide an income stream to assist the long term development of the property.

(2) The Secretary of Defense is authorized by Pub. L. 103-160, Section 2903 to convey real property at an installation to be closed to the local redevelopment authority for economic development (an economic development conveyance). The conveyance of property may be for consideration at or below the estimated fair market value, or without consideration. The consideration, if any, can be paid in cash or in kind. Property to be transferred pursuant to Public Law 103-160, section 2903, will be conveyed with no consideration, subject to recoupment as described in paragraph (f) of this section.

(3) The economic development conveyance authority is an addition to existing public benefit authorities and, generally, should not be used when these public benefit authorities would apply. The Military Departments shall prepare a written explanation why a transfer was made using this economic development conveyance authority for what appears to be a purpose covered by an existing public benefit authority.

(4) Before making an economic development conveyance of real property, an appraisal or other estimate of the property's fair market value shall be made, based on the proposed reuse of the property. The Military Department shall consult with the local redevelopment authority on appraisal

assumptions, guidelines and on instructions given to the appraiser, but shall be fully responsible for completion of the appraisal. When a property is conveyed for economic development with no initial consideration, the Military Department shall prepare a written explanation why the estimated fair market value was not received and retain it in their real property files.

(5) Property may be conveyed under Pub. L. No. 103-160 to an authorized local redevelopment authority for economic development following submission of a written request to the Secretary of the Military Department concerned disposing of the property. The requests should contain the following elements:

(i) Description of the property to be conveyed.

(ii) Statement of the local redevelopment authority's legal authority to acquire and dispose of property under the laws of the governing State.

(iii) A redevelopment plan that includes economic development and job creation.

(iv) A statement explaining why existing public benefit conveyance authorities are not appropriate.

(6) Installations located in rural areas are of particular concern. An economic development conveyance may be made without consideration and without recoupment in a rural area when the base closure will have a substantial adverse impact on the economy of the local community and on the prospect of its economic recovery from the closure. To determine whether a rural community is eligible for transfer under this section, the Secretary concerned shall first determine whether the closure will have a substantial adverse impact on the prospect for economic recovery by determining whether there is a market for the property. The closure may be determined to have substantial adverse impact if after advertising for expressions of interest pursuant to paragraph (d) of this section, no expressions of interest are received. No expressions of interest to purchase the property signifies that public or private developers will not be able to provide jobs and economic growth sufficient to provide timely recovery from closure without assistance. The second step requires the Secretary concerned to make a determination that the base closure will have a substantial adverse impact on the economy of the communities in the vicinity of the installation. In these cases, the base shall be offered to the local redevelopment authority for conveyance without consideration and without

recoupment (subject to paragraph (f)(5) of this section).

(7) The provisions of this section may not be appropriate for some of the 1988 and 1991 base closures and realignments, because these bases are so far along in the property disposal process that certain actions have been taken or agreed to that are inconsistent with the new procedures. In cases where the new property disposal process is not appropriate, the Secretary concerned shall request a waiver from the ASD(ES) before proceeding with the disposition of the property.

(f) Profit sharing.

(1) When real property is conveyed as described in paragraph (e) of this section, the Department of Defense shall generally share in the division of future profits should the property be subsequently sold or leased. The division of profits shall be based on net profits and the share shall generally favor the local redevelopment authority. There shall be a 15-year time limit on the share of the profits. The government's portion of the receipts from the profit shall not exceed the fair market value of the property at the time it was conveyed to the local redevelopment authority.

(2) Properties conveyed under the authority of Pub. L. 103-160, section 2903, to local redevelopment authorities under an economic development conveyance that are subsequently sold or leased shall be subject to recoupment (profit sharing) by the Department of Defense, except as provided in paragraph (e)(6) of this section. In the absence of a determination by the Secretary of the Military Department concerned that a different division of the net profits is appropriate because of special circumstances, the net profits shall be shared on a basis of 60 percent to the local redevelopment authority and 40 percent to the Department of Defense. The purpose of this recoupment policy is to allow the local redevelopment authority to benefit from the success of its efforts and from value created from zoning. Eliminating the requirement for initial consideration also frees the local redevelopment authority's income stream for use in funding infrastructure improvements needed to develop the property and increase its value. Sharing the profits, when they occur, will provide a return to the taxpayers for the property they originally paid for, without unduly burdening the community.

(3) The total recoupment by the Government shall not exceed the fair market value of the property (or the top end of the range of values) calculated at

the time of conveyance to the local redevelopment authority.

(4) The standard excess profits covenant promulgated by the General Services Administration (GSA) at 41 CFR 101-47.4908 shall be used as a model deed provision to implement this recoupment policy, recognizing that the GSA provision will require tailoring for each parcel. The following changes and additions are required:

(i) The deed provision will express the profit sharing established under paragraph (f)(2) of this section, unless explicitly modified by the Secretary of the Military Department concerned.

(ii) The term of this deed provision in economic development conveyances will be 15 years unless released earlier by the government upon satisfaction of the recoupment requirement. The disposing Military Department will provide a statement, for use at any settlement, on the local redevelopment authority's compliance with the deed provision. The Military Department will formally release the provision when the government has received its share of the sale proceeds.

(iii) The deed provision will forbid "straw" transactions (sales or leases to a cooperating party at a nominal price), transactions at other than arm's length, and other devices designed to circumvent the Government's recovery of its share of the net profits. The purpose of this clause of the deed provision is to provide a basis for the government to intervene if it appears that a transaction may adversely affect its interests.

(iv) In calculating the amount of any net profit from a sale or lease, the local redevelopment authority may include:

(A) Capital costs, as provided in 41 CFR 101-47.4908(b).

(B) Direct and indirect costs related to the particular property and transaction that are otherwise allowable under 48 CFR part 31 including the allocable costs of operation of the local redevelopment authority with regard to that property.

(v) The annual report required by the GSA provision will be deleted, and a clause requiring notification to the disposing Military Department of sales or leases will be substituted. The notice of sale or lease will be accompanied by an accounting or financial analysis indicating the net profit, if any, from a sale, or the estimated annual profit from a lease. The accounting or financial analysis, and any other aspect of a transaction by the local redevelopment authority with respect to property transferred under this part, is subject to Department of Defense audit.

(5) The Military Department concerned is authorized to negotiate an up-front settlement of projected recoupment revenues from a conveyance under this section when such settlement is requested by the redevelopment authority.

(6) The provisions of this section may not be appropriate for some of the 1988 and 1991 base closures and realignments, because these bases are so far along in the property disposal process that certain actions have been taken or agreed to that are inconsistent with the new procedures. In cases where the new property disposal process is not appropriate, the Secretary concerned shall request a waiver from the ASD(ES) before proceeding with the disposition of the property.

(g) Leasing of real property.

(1) Leasing of real property is an effective way to quickly attract new jobs to replace those that have been lost by the base closing. In the past, the requirement to lease at fair market value discouraged the creation of new jobs. The new process of leasing, at less than fair market value, where appropriate, will provide new incentives for redevelopment authorities and businesses alike to spur job creation and speed economic redevelopment.

(2) The Secretaries of the Military Departments are authorized by Pub. L. 103-160, section 2906 to lease real and personal property at closing or realigning bases for consideration of less than the estimated fair market value, if the Secretary concerned determines:

(i) That a public interest will be served as a result of the lease.

(ii) That securing the estimated fair market rental value from the lease is not compatible with such public interest.

(3) The Military Departments shall determine the environmental suitability of property to be leased using the procedures in the DoD policy entitled "Procedures for Finding of Suitability to Lease (FOSL)" contained in the Deputy Secretary of Defense Memorandum,² "Fast Track Cleanup at Closing Installations", September 9, 1993, and any amendments thereto. Regulatory consultation (Environmental Protection Agency (EPA) and State government) must be completed before entering into any leases, as specified in the FOSL guidance and when approved, the Memorandum of Understanding between DoD and EPA will confirm the FOSL process.

(4) The Military Departments are encouraged to redelegate leasing

authority to the level that can best respond to local redevelopment needs and still exercise prudent and consistent stewardship over these public assets.

(h) Personal property.

(1) Personal property located on closing bases is often very useful to the redevelopment of the real property. This section outlines procedures to allow transfer of personal property with the real property in many cases. It provides for completing an inventory soon after the base is approved for closure, consulting with local officials, and a walkthrough of the base. The community can then identify the personal property it wishes to retain in its redevelopment plan. The Department of Defense will keep a great deal of the personal property at the base while the redevelopment plan is being put together. Only valid exemptions will be made to this freeze, usually involving specific military requirements or property which the base does not own. Emissions trading procedures will be issued separately and are not covered by the part.

(2) Each Military Department and Defense Agency, as appropriate, shall take an inventory of the personal property, to include its condition, at closing or realigning bases as early in the closure process as possible. At realigning bases, the inventory shall be limited to the personal property located on the real property to be disposed of by the Military Department or Defense Agency. The purpose of the inventory is to identify personal property—any property except land, fixed-in-place buildings, ships, and Federal records—that could enhance the reuse potential of real property that may be conveyed to the local redevelopment authority for supporting the economic redevelopment of the base. The exempted categories of personal property listed in paragraph (h)(5) of this section shall not be subject to review by the community. The inventory must be completed by June 1, 1994, for 1988, 1991 and 1993 closures and realignments or within 6 months after the date of approval of 1995 closures.

(3) The inventory shall be taken in consultation with local redevelopment authority officials. If no local redevelopment authority exists, consultation shall be offered to the local government in whose jurisdiction the installation is wholly located, or a local government agency or State government agency designated for the purpose of such consultation by the chief executive officer of the State. Based on these consultations, the base commander is responsible for determining the items or category of items potentially enhancing

the reuse of the real property and needed to support the redevelopment plan. When the inventory is completed, base personnel shall offer a "walkthrough" with representatives of the local redevelopment authority so that they can see the type and condition of the property available for reuse. Disagreements should be resolved within the chain-of-command, with final authority on resolving personal property issues resting with the Secretary of the Military Department or Defense Agency Director responsible for the real property. This authority may be further delegated.

(4) The Military Departments should make every reasonable effort to assist affected communities in obtaining the personal property needed to convert the bases into economically-viable enterprises. Personal property not subject to the exemptions in paragraph (h)(5) of this section shall remain at a closing or realigning base until one of the following time periods expire (whichever comes first):

(i) One week after the date on which the redevelopment plan is submitted to the applicable Military Department.²

(ii) The date on which the local redevelopment authority notifies the applicable Military Department that a plan will not be submitted.

(iii) Twenty-four months after the dates referred to in paragraph (h)(2) of this section which for 1988, 1991 and 1993 base closures and realignments is November 30, 1995, or 24 months after the date of approval of the 1995 closures and realignments.

(iv) Ninety days before the date of the closure or realignment of the installation.

(5) Personal property may be removed without regard to these time periods upon approval of the base commander, or higher authority within the Military Department, and after notice to the local redevelopment authority, if the property:

(i) Is required for the operation of a unit, function, component, weapon, or weapon system transferring to another installation. A transferring unit or function may take with it any property needed to function properly as soon as it arrives, provided that suitable replacement equipment will not be readily obtainable there and moving it is cost-effective. In addition to this authority for the transferring unit or function to remove personal property, the major command having jurisdiction over the installation (e.g., the Army's Forces Command or the Air Force's Air Combat Command), or the major claimant having jurisdiction over the installation (e.g., the Navy's U.S.

² Document available from the Office of the Deputy Under Secretary of Defense (Environmental Security), Pentagon, Washington, DC 20301.

Atlantic Fleet) also may remove property that is needed immediately and is indispensable to an organization under its jurisdiction at another installation for carrying out the organization's primary mission.

(ii) Is uniquely military in character, and is likely to have no civilian use (other than use for its material content or as a source of commonly used components). Classified items; nuclear, biological, chemical items; weapons and munitions; museum property or items of significant historic value that are maintained or displayed on loan; and similar military items fit this exception.

(iii) Is not required for the reutilization or redevelopment of the installation (as jointly determined by the Military Department concerned and the redevelopment authority).

(iv) Is stored at the installation for distribution (including spare parts or stock items). This exception includes materials or parts used in a manufacturing or repair function but does not include maintenance spares for equipment to be left in place.

(v) Meets known requirements of an authorized program of another Federal Department or Agency for which expenditures for similar property would be necessary, and is the subject of a written request received from the head of the Department or Agency. In this context, "expenditures" means the Federal Department or Agency intends to obligate funds in the current quarter or next six fiscal quarters. The Federal Department or Agency must pay packing, crating, handling, and transportation charges associated with such transfers of personal property.

(vi) Belongs to nonappropriated fund instrumentalities (NAFI). NAFI property may be removed at the Military Departments' discretion, because NAFI property belongs to the Service members collectively and is not government property. Therefore, it may not be transferred to the local redevelopment authority under this section. Separate arrangements for communities to purchase NAFI property are possible and may be negotiated with the Military Department concerned.

(vii) Is needed elsewhere in the national security interest of the United States, as determined by the Secretary of

the Military Department concerned. This authority may not be redelégated.

(6) Personal property to be transferred to the local redevelopment authority in support of its redevelopment plan is not subject to sections 202 and 203 of Public Law 81-152, "Federal Property and Administrative Services Act of 1949, as amended" of June 30, 1949, 40 U.S.C. 483-484. If the real property is transferred without consideration, the personal property shall also be transferred without consideration. If the real property is transferred at or near estimated fair market value, the value of the personal property shall be included in the estimated fair market value of the real property. If the property is conveyed separately from the real property, the value of the personal property shall be that at which it is carried on the installation's property account or estimated fair market value as agreed to between the parties at the time of transfer.

(7) In addition to the exemptions in paragraph (b)(5) of this section, the Military Department or Defense Agency is authorized to substitute an item similar to one requested by the redevelopment authority. The substitute items may be drawn from another installation or from the Defense Reutilization and Marketing Service. It is the responsibility of the Military Department or Defense Agency that owns the property to find a similar item that may be suitable as a substitute. In this context, "similar" means the original and the proposed substitute item are designed and constructed for the same specific purpose. However, before substituting another item for the one being requested, the base commander shall consult with the redevelopment authority.

(8) Personal property that is not needed by a major command (or its subordinates), a Federal Agency, or a local redevelopment authority (or a State or local jurisdiction in lieu of a local redevelopment authority) shall be transferred to a Defense Reutilization and Marketing Office for processing in accordance with the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 483 *et seq.*

(i) Minimum level of maintenance and repair to support nonmilitary purposes.

(1) Facilities and equipment located on closing bases are often important to the eventual reuse. This section provides procedures to protect their condition while the redevelopment plan is being put together. The level of maintenance will be determined in consultation with the redevelopment authority.

(2) Public Law 103-160, section 2902 states that the Secretary may not reduce the level of maintenance and repair of facilities or equipment at the installation below the minimum levels required to support the use of such facilities or equipment for nonmilitary purposes, except when the Secretary of the Military Department concerned determines that such reduction is in the National Security interest of the United States. This requirement remains in effect until one of the time periods in paragraph (h)(4) of this section has expired.

(3) The initial minimum level of maintenance and repair to support nonmilitary purposes shall be determined during consultation between the Military Department and the redevelopment authority. This level and the property to which it applies shall be reviewed with the local redevelopment authority when it presents its final development plan. Where agreement cannot be reached, the Secretary of the Military Department concerned shall determine the level of maintenance required. In no case shall the level of maintenance and repair:

(i) Exceed the standard at the time of approval of the closure or realignment.

(ii) Require any improvements to the property to include construction, alteration, or demolition, except that required by environmental restoration.

(4) The negotiated minimum maintenance agreement must be tailored to the specific non-military uses, but shall include the following:

(i) Maintaining the facilities and equipment that are likely to be utilized in the near term at a level that shall prevent undue deterioration and allow transfer to the local redevelopment authority.

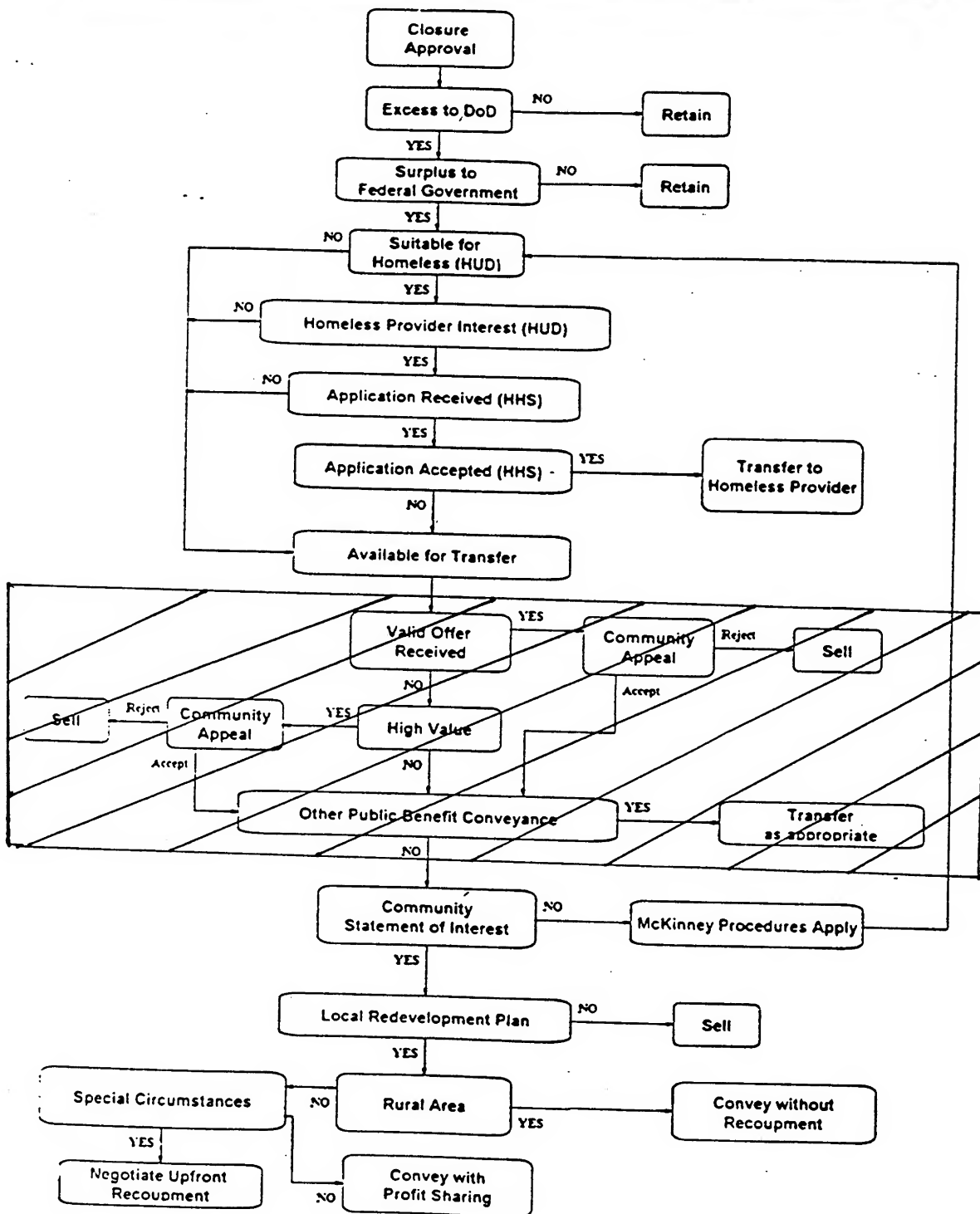
(ii) Not delaying the scheduled closure date of the installation.

Dated: March 31, 1994.

BILLING CODE 5000-04-M

Appendix A to Part 91

Process Flowchart for Base Closure Community Assistance



BILLING CODE 5000-04-C

APPENDIX B TO PART 91.—CLOSURE AND TRANSITION TIMELINE FOR A NOTIONAL BRAC 1993 BASE THAT CLOSES ON SEPTEMBER 30, 1997

[Dates are completion dates—First of the month]

	1993	1994	1995	1996	1997	1998	1999
1. Closure approved	Dec.						
2. Real property screening:							
a. Within DoD		Apr.					
b. With other Federal Agencies		June.					
c. State and Local (public benefit conveyances)		June.					
3. McKinney Act screening:							
a. MiDeps report surplus to HUD		June.					
b. HUD publishes list of suitable prop		Aug.					
c. Providers express interest		Oct.					
d. Applications submitted to HHS			Jan.				
e. HHS approves/disapproves application			Feb.				
f. RDA expresses interest in unclaimed property (re- maining surplus property relisted by HUD).				Feb.			
4. Jobs-centered property disposal:							
a. Begin appraisals of properties with job potential		June.					
b. Advertise for expressions of interest		Oct.					
c. MiDeps notify RDA of bases to be sold			Apr.				
d. RDA ask MilDep to reconsider			June.				
5. Local redevelopment plan completed				Feb.			
6. Conveyance of real property:							
a. Leases (FOSL), as available		June.					
b. Clean parcel (CERFA) identification			Dec.				
c. EIS Completed (ROD)					Feb.		
d. Transfer/Sale (FOST)—parcels or whole, as available.						Mar.	(and be- yond).
7. Personal property:							
a. Inventory complete		June.					
b. Longest personal property can be frozen				June.			
8. Base Closes (missions leave)						Sept.	

developing the property could clean it more quickly and efficiently than the government. This section provides a proposed rule which in its final form would allow the Department to transfer a property for the cost of cleanup to persons who agree to perform the environmental restoration. If the estimated value of the base exceeds the cost of cleanup, the buyer shall make up the difference. The Department of Defense and the Environmental Protection Agency will continue to consult regarding the implementation of Public Law 103-160, section 2908.

List of Subjects in 32 CFR Part 91

Community development, Environmental protection, Government employees, Homeless Military personnel, Surplus Government property.

Accordingly, 32 CFR part 91 is proposed to be amended to read as follows:

PART 91—[AMENDED]

1. The authority citation for part 91 continues to read as follows:

Authority: 10 U.S.C. 2687 note.

2. Section 91.7 is proposed to be amended by adding a new paragraph (j) to read as follows:

§ 91.7 Procedures.

(j) Transfer of real property or facilities to persons paying the cost of environmental restoration activities on the property.

(1) In many cases the most difficult obstacle to getting property into productive reuse is environmental restoration, because the Department of Defense cannot convey title to property until this is accomplished. The potential exists that persons who are interested in developing the property could clean it more quickly and efficiently than the government. This section proposes instructions to implement a new authority which allows the Department of Defense to transfer a property for the cost of cleanup to persons who agree to perform the environmental restoration. If the estimated value of the base exceeds the cost of cleanup, the buyer shall make up the difference.

(2) Section 2908 of Title XXIX of Public Law 103-160 authorizes the Secretary of Defense, at any time before December 1, 1998, to enter into agreements to transfer by deed, real property or facilities at closing installations to a person who agrees to perform all required environmental cleanup, waste management, and environmental compliance activities.

(3) The authority may be exercised in the following manner:

(i) An agreement to transfer may be executed with any person, provided that person can demonstrate to the satisfaction of the Secretary concerned the ability to adequately perform all required environmental clean-up, waste management and environmental compliance activities.

(ii) The property and facilities subject to the agreement must be located in an installation closed or to be closed under a base closure law, as defined in paragraph (c)(1) of this section and at the time the agreement is executed must be available exclusively for the use, or expression of an interest in use, of a local redevelopment authority under Public Law 103-160, section 2905. The reuse contemplated in the agreement must be consistent with the applicable local redevelopment plan.

(iii) The Agreement may be in any form and transfer any interest allowable under the law of the State in which the property or facility is located provided, however:

(A) The Agreement may not serve to transfer title by deed in violation of Section 120(h) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) (42 U.S.C. 9620(h)).

(B) The Agreement must contain a stipulation that all environmental restoration, waste management and environmental compliance activities required under Federal and State laws, administrative decisions, agreements (including schedules and milestones), and regulatory agency concurrences, including those that become effective at any time during the existence of the Agreement, shall be met by the person with whom the Agreement is to be executed. The environmental restoration for the Agreement must include activities associated with cleanup of petroleum and its derivatives.

(C) The Agreement shall contain any item or condition that the Secretary of the Military Department concerned considers appropriate to protect the interests of the United States. Such terms or conditions may include, but are not limited to, providing continued access to the property and facilities by the U.S. and State and local regulatory agencies; limitations upon the use to which the property may be put; and, provisions requiring a bond or other form of financial assurance.

(D) The Agreement must contain a description of the information disclosed to the person to whom the property or facilities will be transferred on the environmental restoration, waste management and environmental

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 91

RIN 0790-AF64

Revitalizing Base Closure Communities—Base Closure Community Assistance

AGENCY: Department of Defense, DoD.

ACTION: Proposed rule.

SUMMARY: The proposed rule publishes for comment the guidance required by section 2908 of the National Defense Authorization Act for Fiscal Year 1994. Section 2908 of the Act provides authority for the Secretary of Defense to transfer real property or facilities available as a result of a base closure, to persons paying the cost of environmental restoration activities on the property.

DATES: Comments must be received by July 5, 1994.

ADDRESSES: Comments must be forwarded to the Office of the Assistant Secretary of Defense for Economic Security, room 3D854, The Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT:

Steven Kleiman or Frank Savat, telephone (703) 614-5356.

SUPPLEMENTARY INFORMATION: In many cases the most difficult obstacle to getting property into productive reuse after a base closes is environmental restoration, because the Department of Defense cannot convey title to property until this is accomplished. The potential exists that persons who are interested in

compliance requirements and activities relevant to the property or facilities. This description shall include any specific information required by the notice requirements of Section 120(h)(1) of CERCLA (42 U.S.C. 9620(h)).

(E) The Agreement should disclose to the person to whom the property or facilities will be transferred that the U.S. will not indemnify, hold harmless or defend that person pursuant to Public Law 102-484, section 330, as amended by Public Law 103-160, section 1002.

(F) The Agreement may provide for a transfer to occur at any point after all remedial action necessary to protect human health and the environment has been constructed and installed by the person and the remedy has been demonstrated to the Military Department concerned and EPA to be operating properly and successfully.

(iv) The consideration for the Agreement must equal the estimated fair market value of the property or facilities to be transferred, as determined by the Secretary of the Military Department concerned. The consideration may be in the form of the expected costs of all environmental restoration, waste management, and environmental compliance activities to be paid by the recipient of the property or facilities. If such expected costs are lower than the estimated fair market value of the property or facilities, the Secretary concerned shall obtain the difference in other consideration satisfactory to the Secretary concerned.

(v) Before executing any Agreement authorized by Public Law 103-160, section 2908 the Secretary concerned must:

(A) Disclose to the person to whom the property or facilities shall be transferred any information under the control of the Secretary regarding the environmental restoration, waste management and environmental compliance activities that relate to the property.

(B) Conduct an Environmental Baseline Survey to determine whether there are impediments to the ultimate transfer of the property.

(C) Make the certification to Congress required by Public Law 103-60, section 2908.

(D) Ensure the consultation with the affected governor and local communities required by a base closure law, as defined in paragraph (e)(1) of this section, has been conducted.

Dated: March 31, 1994.

P.H. Means,

*OSD Federal Register Liaison Officer,
Department of Defense.*

[FR Doc. 94-8115 Filed 4-5-94; 8:45 am]

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COMMENTS ON THE INTERIM FINAL RULE

IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16124

Column: 2

Paragraph: 3

Recommended Change:

Change title of paragraph 3 from: 3. Local Redevelopment Plan
to:

3. Local Redevelopment Authority.

The early formation of a local redevelopment authority is critical to the successful reuse of the base. The primary focus of the local redevelopment authority should be developing a comprehensive local redevelopment plan. This plan should embrace the range of feasible reuse options that will result in rapid job creation. The local redevelopment plan will generally be used as the proposed action when the disposing Military Department conducts the environmental analyses required by the National Environmental Policy Act (NEPA).

Why:

This properly names this section.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

COMMENTS ON THE INTERIM FINAL RULE

IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16124

Column: 2

Paragraph: 3

Recommended Change:

In the 4th sentence, change the word "generally" to "**in most cases**"

The early formation of a local redevelopment authority is critical to the successful reuse of the base. The primary focus of the local redevelopment authority should be developing a comprehensive local redevelopment plan. This plan should embrace the range of feasible reuse options that will result in rapid job creation. The local redevelopment plan will **in most cases** be used as the proposed action when the disposing Military Department conducts the environmental analyses required by the National Environmental Policy Act (NEPA).

Why:

This places a higher, appropriate emphasis on the local redevelopment plan.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

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IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16124

Column: 2

Paragraph: 3

Recommended Change:

Add the following paragraph after paragraph one:

"At the conclusion of the McKinney Act screening process, the local redevelopment authority will be granted an exclusive 1-year period to submit a written expression of interest, during which time a redevelopment plan should be submitted that addresses economic development and job creation goals. The plan should indicate the desire of the local redevelopment authority to request an economic development conveyance."

3. Local Redevelopment Authority

The early formation of a local redevelopment authority is critical to the successful reuse of the base. The primary focus of the local redevelopment authority should be developing a comprehensive local redevelopment plan. This plan should embrace the range of feasible reuse options that will result in rapid job creation. The local redevelopment plan will in most cases be used as the proposed action when the disposing Military Department conducts the environmental analyses required by the National Environmental Policy Act (NEPA).

At the conclusion of the McKinney Act screening process, the local redevelopment authority will be granted an exclusive 1-year period to submit a written expression of interest, during which time a redevelopment plan should be submitted that addresses economic development and job creation goals. The plan should indicate the desire of the local redevelopment authority to request an economic development conveyance.

Why:

This properly applies the one year planning window designated for local redevelopment authorities.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

COMMENTS ON THE INTERIM FINAL RULE

IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16126

Column: 2

Paragraph: 90.3(e)

Recommended Change:

Add the following sentence at the end of the paragraph:

"Redevelopment authorities normally receive official DoD recognition by receiving a planning assistance grant from the Office of Economic Adjustment (OEA)."

(e) *Redevelopment authority.* Any entity, including an entity established by a State or local government, recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation and for directing implementation of the plan. Redevelopment authorities normally receive official DoD recognition by receiving a planning assistance grant from the Office of Economic Adjustment (OEA).

Why:

This provides the normal procedure that redevelopment authorities use to receive DoD recognition.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

COMMENTS ON THE INTERIM FINAL RULE

IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16127

Column: 3

Paragraph: 91.3(g)

Recommended Change:

Add the following sentence at the end of the paragraph:

"Redevelopment authorities normally receive official DoD recognition by receiving a planning assistance grant from the Office of Economic Adjustment (OEA)."

(g) Redevelopment authority. Any entity, including an entity established by a State or local government, recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation and for directing implementation of the plan. Redevelopment authorities normally receive official DoD recognition by receiving a planning assistance grant from the Office of Economic Adjustment (OEA)."

Why:

This provides the normal procedure that redevelopment authorities use to receive DoD recognition.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

COMMENTS ON THE INTERIM FINAL RULE

IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16129 ..

Column: 1

Paragraph: 91.7(a)(9)(ii)

Recommended Change:

After "Bureau of Land Management (BLM)," insert:

"and the local redevelopment authority, if established,"

(ii) The Military Department concerned will notify the Secretary of Interior, normally through the Bureau of Land Management (BLM), and the local redevelopment authority, if established, when withdrawn public domain lands are included within an installation to be closed.

Why:

This ensures that the local redevelopment authority receives notification that withdrawn public domain lands are included within an installation to be closed.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

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IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16129

Column: 1

Paragraph: 91.7(b)(1)

Recommended Change:

Change the wording in the fifth sentence from "fully accommodate" to "**give priority consideration to**" and add the word "local" before homeless as indicated below.

(b)(1) The Stewart B. McKinney Homeless Assistance Act as amended (42 U.S.C. 11301), is a statute designated to permit HHS-approved providers of assistance to the homeless to receive a high priority in acquiring unneeded land and buildings on Federal properties. Buildings and land on closing bases provide excellent opportunities for homeless providers to acquire the land and buildings they need to establish their programs. This section describes the new process specifically tailored for base closure properties that will expedite the screening process with homeless providers and will result in the early identification of their needs. The Military Departments will work with communities to identify eligible entities and conduct timely outreach seminars to educate homeless providers with respect to the land and buildings that will be made available and the process for making a formal application to the Department of Health and Human Services (HHS). The early identification of homeless assistance requirements for land and buildings at closing bases will permit communities to develop reuse plans that give priority consideration to local homeless needs, while permitting early identification of the remaining property for either quick sale for job creation, a federally sponsored public benefit conveyance or conveyance to a local redevelopment authority for economic development purposes.

Why:

This language makes the interim rules consistent with the informative literature and guidance provided by Health and Human Services to Homeless Service Providers seeking federal land, buildings or property. Further, the language differentiates between regional or national service providers and local service providers.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

COMMENTS ON THE INTERIM FINAL RULE

IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16130 ..

Column: 2

Paragraph: 91.7(c)

Recommended Change:

Change title of paragraph from : "(c) *Local redevelopment plan.*"
to: "(c) *Local redevelopment authority.*"

Why:

This properly names this section.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

COMMENTS ON THE INTERIM FINAL RULE

IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16130 . .

Column: 2

Paragraph: 91.7(c)(1)

Recommended Change:

In the 4th sentence, change the word "generally" to "in most cases"

(c) *Local redevelopment authority.*

(1) The early formation of a redevelopment authority is critical to the successful reuse of the base. The primary focus of the redevelopment authority should be developing a comprehensive local redevelopment plan. This plan should embrace the range of feasible reuse options that will result in rapid job creation. The local redevelopment plan will in most cases be used as the proposed action in conducting environmental analyses required by the National Environmental Policy Act of 1969 (NEPA), (42 U.S.C. 4332 et seq.).

Why:

This places a higher, appropriate emphasis on the local redevelopment plan.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

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IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16130 ..

Column: 2

Paragraph: 91.7(c)(2)

Recommended Change:

Renumber paragraph (2) to (3) and insert new paragraph (2) as follows:

(2) At the conclusion of the McKinney Act screening process, the local redevelopment authority will be granted an exclusive 1-year period to submit a written expression of interest, during which time a redevelopment plan should be submitted that addresses economic development and job creation goals. The plan should indicate the desire of the local redevelopment authority to request an economic development conveyance.

(3) Although the statute only requires the local redevelopment authority to submit a written expression of interest within 1 year after the date the property is released from McKinney Act screening, the local redevelopment plan should be prepared within that 1 year period.

Why:

This properly applies the one year planning window designated for local redevelopment authorities.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

COMMENTS ON THE INTERIM FINAL RULE

IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16131

Column: 3

Paragraph: 91.7(e)(4)

Recommended Change:

In the first sentence of paragraph (4) change "proposed reuse of the property" to "property's "as-is" condition".

(4) Before making an economic development conveyance of real property, an appraisal or other estimate of the property's fair market value shall be made, based on the property's "as-is" condition. The Military Department shall consult with the local redevelopment authority on appraisal assumptions, guidelines and on instructions given to the appraiser, but shall be fully responsible for completion of the appraisal. When a property is conveyed for economic development with no initial consideration, the Military Department shall prepare a written explanation why the estimated fair market value was not received and retain it in their real property files.

Why:

The proposed economic development conveyances should be appraised at fair market value according to the property's "as-is" condition.

Local communities will bring a variety of resources to this redevelopment effort. These resources will include knowledge of local and regional development climate, market, and trends; possibility to assist with financing tools to aid redevelopment; technical expertise with the general development field; authority to rezone the property which creates value; and the sweat equity needed to complete reuse planning and implementation efforts. These resources should be used to benefit the local community. The local community should not be punished for wanting to create a successful redevelopment project. Without ensuring the local community will receive the full benefit of its resources, local communities have little incentive to participate in redevelopment efforts.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview.
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

COMMENTS ON THE INTERIM FINAL RULE

IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16132

Column: 3

Paragraph: 91:7(f)(4)(iii)

Recommended Change:

At the end of the paragraph, add the following:

"Transfers by sale or lease using "nominal" price transactions for certain parcels may be appropriate when they assist in the overall redevelopment of the property, benefit the local public, and/or benefit the federal government."

(iii) The deed provision will forbid "straw" transactions (sales or leases to a cooperating party at a nominal price), transactions at other than arm's length, and other devices designed to circumvent the Government's recovery of its share of the net profits. The purpose of this clause of the deed provision is to provide a basis for the government to intervene if it appears that a transaction may adversely affect its interests. Transfers by sale or lease using "nominal" price transactions for certain parcels may be appropriate when they assist in the overall redevelopment of the property, benefit the local public, and/or benefit the federal government.

Why:

This addresses property transfers that may be desired to enhance the overall redevelopment of the property, benefit the local public, and/or benefit the federal government.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

COMMENTS ON THE INTERIM FINAL RULE

IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16133

Column: 2

Paragraph: 91.7(h)(1)

Recommended Change:

Add the following sentence at the end of the paragraph:

"Should the local redevelopment authority challenge any movement of personal property, the property shall be frozen in place until the appropriate Service Secretary, or designated representative, can review the challenge and make a decision regarding the final disposition of the property."

(H) *Personal property.*

(1) Personal property located on closing bases is often very useful to the redevelopment of the real property. This section outlines procedures to allow transfer of personal property with the real property in many cases. It provides for completing an inventory soon after the base is approved for closure, consulting with local officials, and a walk-through of the base. The community can then identify the personal property it wishes to retain in its redevelopment plan. The Department of Defense will keep a great deal of the personal property at the base while the redevelopment plan is being put together. Only valid exemptions will be made to this freeze, usually involving specific military requirements or property which the base does not own. Emissions trading procedures will be issued separately and are not covered by the part. Should the local redevelopment authority challenge any movement of personal property, the property shall be frozen in place until the appropriate Service Secretary, or designated representative, can review the challenge and make a decision regarding the final disposition of the property.

Why:

This provides a procedure for the local redevelopment authority to receive a fair judgement on challenges to the disposition of personal property.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

COMMENTS ON THE INTERIM FINAL RULE

IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16133

Column: 2

Paragraph: 91.7(h)(2)

Recommended Change:

Delete the following sentence in paragraph (2): "The exempted categories of personal property listed in paragraph (h)(5) of this section shall not be subject to review by the community."

(2) Each Military Department and Defense Agency, as appropriate, shall take an inventory of the personal property, to include its condition, at closing or realigning bases as early in the closure process as possible. At realigning bases, the inventory shall be limited to the personal property located on the real property to be disposed of by the Military Department or Defense Agency. The purpose of the inventory is to identify personal property - any property except land, fixed-in-place buildings, ships, and Federal records - that could enhance the reuse potential of real property that may be conveyed to the local redevelopment authority for supporting the economic redevelopment of the base. **The exempted categories of personal property listed in paragraph (h)(5) of this section shall not be subject to review by the community.** The inventory must be completed by June 1, 1994, for 1988, 1991 and 1993 closures and realignments or within 6 months after the date of approval of 1995 closures.

Why:

This ensures that all personal property decisions are reviewed by the local redevelopment authority, thereby enabling a "challenge" to all personal property movements if considered critical to the redevelopment of the base, the provision of governmental services to the property, or in the best interest of the local community affected by the base closure or realignment.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

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IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16133

Column: 3

Paragraph: 91.7(h)(5)

Recommended Change:

Change "after notice to the local redevelopment authority"
to "**after review by the local redevelopment authority**"

(5) Personal property may be removed without regard to these time periods upon approval of the base commander, or higher authority within the Military Department, and **after review by the local redevelopment authority**, if the property:

Why:

This provides consistency in the policy that allows the local redevelopment authority to review all personal property disposition decisions.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

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IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16133

Column: 3

Paragraph: 91.7(h)(5)(i)

Recommended Change:

Delete the 3rd sentence: "In addition to this authority for the transferring unit or function to remove personal property, the major command having jurisdiction over the installation (e.g., the Army's Forces Command or the Air Force's Air Combat Command), or the major claimant having jurisdiction over the installation (e.g., the Navy's U.S. Atlantic Fleet) also may remove property that is needed immediately and is indispensable to an organization under its jurisdiction at another installation for carrying out the organization's primary mission."

(i) Is required for the operation of a unit, function, component, weapon, or weapon system transferring to another installation. A transferring unit or function may take with it any property needed to function properly as soon as it arrives, provided that suitable replacement equipment will not be readily obtainable there and moving it is cost-effective. In addition to this authority for the transferring unit or function to remove personal property, the major command having jurisdiction over the installation (e.g., the Army's Forces Command or the Air Force's Air Combat Command), or the major claimant having jurisdiction over the installation (e.g., the Navy's U.S. Atlantic Fleet) also may remove property that is needed immediately and is indispensable to an organization under its jurisdiction at another installation for carrying out the organization's primary mission.

Why:

This disallows the military services from making a "wholesale" redistribution of personal property prior to allowing the local redevelopment authority a chance to obtain it for economic redevelopment purposes.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

COMMENTS ON THE INTERIM FINAL RULE

IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16134

Column: 1

Paragraph: 91:7(h)(5)(v)

Recommended Change:

Delete this section: "Meets known requirements of an authorized program of another Federal Department or Agency for which expenditures for similar property would be necessary, and is the subject of a written request received from the head of the Department or Agency. In this context, "expenditures" means the Federal Department or Agency intends to obligate funds in the current quarter or next six fiscal quarters. The Federal Department or Agency must pay packing, crating, handling, and transportation charges associated with such transfers of personal property."

Why:

This disallows Federal Agencies from making a "wholesale" redistribution of personal property prior to allowing the local redevelopment authority a chance to obtain it for economic redevelopment purposes.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

COMMENTS ON THE INTERIM FINAL RULE

IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: GNAS Community Reuse Planning Group

Page: 16133

Column: 2

Paragraph: 91.7(h) (3)

Recommended Change:

Change last sentence to expand authority and flexibility of base commander to accommodate needs of affected communities.

"Based on this review, the base commander is responsible for determining the items or category of items, which potentially enhance the reuse of the real property, are needed to support the redevelopment plan, are considered critical in order to provide governmental services, or are otherwise in the best interest of the local community affected by the closure or realignment."

Why:

After the base is closed (or units moved elsewhere in the case of a realignment) local governments are called upon to provide a variety of services. Having the necessary personal property to meet those service demands is critical.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, Illinois 60025

Phone: (708) 724-1700

Helen

The East Bay Conversion and Reinvestment Commission

530 Water St., 5th Floor • Oakland, CA 94607
(510) 834-6928 • Fax: (510) 834-8913

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June 30, 1994

Office of Assistant Secretary of
Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

RE: Comments on the Interim Rule Implementing Title XXIX of the National Defense Authorization Act for FY94 [Pryor Amendment Regulations]

Dear Mr. Assistant Secretary:

On April 6, 1994 the Department of Defense published an interim final rule (the "Pryor Amendment Regulations") that sets forth the procedures by which it will implement the provisions of Title XXIX of the National Defense Authorization Act for Fiscal Year 1994. The interim final rule also establishes the policies and procedures by which the Department of Defense plans to carry out its responsibilities under President Clinton's Five-Part Plan, "A Program to Revitalize Base Closure Communities", July 2, 1993.

The Pryor Amendment and the President's Five-Part Plan were intended to ameliorate the economic and social impact communities affected by base closures and installation remissionings. In the past, traditional property disposal methods focused on maximizing proceeds from the sale of real and personal property with little regard for the effect on prospects of economic recovery in the affected community. The President and Congress proposed changing the procedures for disposing of the base and providing financial assistance to communities to plan for base conversion.

Unfortunately, in many ways, the Pryor Amendment Regulations do not fulfill the intent of the President's and Congress' program. The following comments focus on the major areas in which these Regulations potentially undermine economic revitalization of East Bay communities in the wake of major base closures. The areas chosen to comment on are: (1) jobs-centered property disposal rules; (2) economic development conveyances; (3) leasing of real property; (4) maintenance of base facilities until transfer; and (5) personal property disposition.

1. Jobs Centered Property Disposal. The Pryor Amendment Regulations (Section 91.7 (d)) allow the Department of Defense to select "substantial" portions of a base for rapid sale at fair market value, regardless of the desires of the community to integrate those portions of



June 30, 1994

the base into an over base reuse plan. While the stated objective of this rapid sale program is to produce jobs quickly, the criteria for selecting property is whether the selected portion of the base is readily marketable. The Department of Defense is not required to take into account, in selecting property for rapid sale, the community's plans for incorporating the portions to be sold in its overall reuse plan. In addition, the proceeds from the sale are not necessarily made available to support other reuse functions or needs on the base, such as toxic contamination remediation, interim maintenance or infrastructure development.

PROPOSAL: Section 91.7 (d) of the Pryor Amendment Regulations should be substantially revised to include the following points.

(a) The Department of Defense and the local reuse authority must jointly agree that there is a ready market for a specified portion of the installation and that rapid resale of that specified portion will promote rapid job creation in a manner consistent with the local reuse authority's and the local government's overall reuse plans for the installation. Unless the local reuse authority has made those determinations, the Department of Defense should not be permitted to put up for sale any portions of an installation until the local reuse authority notifies the Department that the local reuse authority will not request an economic development conveyance of the parcel from the Department (or seek a public benefit conveyance to another entity).

(b) Sale proceeds should be retained in a trust-type account to pay for infrastructure development, interim maintenance and toxic contamination remediation on the remainder of the base.

2. Economic Development Conveyances. The Pryor Amendment Regulations (Section 91.7 (e)) allow the Department of Defense to transfer portions of an installation to a local reuse authority at below market value. While the stated objective of this economic development conveyance program is to stimulate economic revitalization, there are no clear standards or guidelines provided in the regulations concerning what constitutes adequate economic development benefits to justify a below market value transfer. The Department of Defense is not required to take into account, in selecting property for such conveyances either the number or quality of jobs that a proposed conveyance would provide.

PROPOSAL: Section 91.7 (e) of the Pryor Amendment Regulations should be revised to require that when seeking an economic development conveyance of installation property at less than market value, the local reuse authority shall hold a public hearing at which the local reuse authority presents to the public (i) the proposed use for the property to be transferred, (ii) the nature, quality, and anticipated longevity of jobs to be created by the

transfer, and (iii) any other information that the local reuse authority deems appropriate to explain to the public the economic development benefits that it hopes to achieve from the transfer.

3. Leasing of Real Property. As a practical matter, leasing, rather than sales, is likely to be the best way to promote new uses on bases such as Alameda Naval Station during this decade. Department of Defense leasing procedures, however, are extremely cumbersome and include requirements that severely limit the opportunities to reuse base facilities. The Regulations make only limited references to leasing procedures in Section 91.7(g) and do not address these problems or recognize the importance of leasing to successful economic conversion.

The Regulations and Department of Defense practice do not distinguish clearly between leases that are for interim purposes (pending completion of the base reuse plan) and those leases that are very long term (20 - 99 years) and are intended to implement the reuse plan. As a result, a jumble of rules and policies are applied to leases which make it very difficult for base reuse authorities to attract and negotiate with potential businesses that would like to lease space or develop portions of a base. Lease terms commonly are limited to one year with the Department of Defense being able to cancel the lease on 30 days notice. It is unclear whether leases at below fair market value can be made directly to private entities that will provide economic development opportunities or whether the reuse authority must first lease the property from the Department of Defense and then release portions to end users. Requiring the reuse authority to be such an intermediary creates impediments, both administrative and financial, to rapid releasing of portions of the base.

PROPOSAL: Section 91.7(g) of the Pryor Amendment Regulations must be expanded to facilitate leasing of portions of closed bases on an interim and long-term basis.

- (a) Leasing should be permitted immediately, prior to operational closure of the base. Lease terms longer than one year must be readily available.
- (b) Lease procedures should allow either for (i) master leases to reuse authorities or their designees (including private development entities or operating businesses); or (ii) leasing of smaller parcels, either directly or broken out of the master leases, to private businesses or developers.
- (c) The Regulations should provide for better coordination with the Environmental Protection Agency concerning the standards or investigation, mitigation and remediation that must be met to permit leasing of site prior to completion of remediation.

(d) The Department of Defense should be required to adopt standard procedures and lease provisions that allow for commercially reasonable practices, such as protection of lenders who finance improvements on leased premises and warranties of habitability of leased premises, in base leases.

4. Maintenance of Bases. It will take many years to plan and implement a base reuse program. The Regulations, however, provide that the Department of Defense will maintain facilities and equipment (including buildings and infrastructure) only to a minimum level (equal to or less than the standard at the time of closure approval) and for only for the next six to eighteen months. After that time, the regulations provide for no maintenance of the base at Department of Defense expense. The result can be that, over the next year base maintenance could slip below current conditions and in succeeding years significant deterioration of facilities could occur. Not only will valuable assets on the base be threatened by the lack of maintenance, but interim uses of the base will be scared off by the appearance of large tracts of unmaintained facilities.

The Regulations also do not permit demolition of dangerous or unnecessary structures as part of maintenance costs.

PROPOSAL: Section 91.7(i) of the Pryor Amendment Regulations should be amended to assure that the Department of Defense will be responsible to maintain closed bases.

(a) The level of maintenance should be that reasonable necessary to preserve assets on the base and to avoid creation of unattractive or nuisance conditions on the base.

(b) The Department of Defense should be responsible for this level of maintenance until new users become responsible for redevelopment and maintenance of the base. Local reuse authorities to should agree to work with the Department of Defense to transfer maintenance responsibilities as rapidly as possible.

(c) The Department of Defense should permit demolition of unsightly or unsafe structures in circumstances in which demolition reduces maintenance costs or expedites attracting new investors and users to a base.

5. Personal Property Disposal. Base closure communities have been severely damaged by Department of Defense's removal of equipment and material from closing bases. In the past, this "stripping" of personal property (in distinction to "real property") has left base facilities unusable or required substantial financial expenditures to reuse the base. The Pryor Amendment promised to remedy that problem, but the Regulations fall far short of the promise. The Department of Defense has left itself with broad latitude in determining what property will be removed, even if the base reuse authority determines that retention of the

property is essential to stimulating reuse of the base.

The Pryor Amendment Regulations do not address the transfer of air emission credits from a closed base. These credits are legally "personal property" and are extremely valuable in the reuse of any base. These credits are needed to permit new users on the base that will create new air emissions. If they are transferred to other Department of Defense installations rather than being available to new users of the base, the new users will have to purchase the credits (if available) or limit their operations. Preservation of the credits for transfer to private users will require the Department of Defense to undertake certain studies and make certain applications to regulatory authorities. If the applications are not made in the proper form and within certain timeframes, the credits can be lost.

PROPOSAL: Section 91.7(h) of the Pryor Amendment Regulations should be revised to make personal property, including air emission credits, more readily available to expedite reuse of the base.

(a) The Department of Defense should be required to maintain all personal property on the base until it and the local reuse authority have developed a mutually agreeable plan for personal property retention and transfer.

(b) Air emission credits should be included in the personal property inventory that the Department of Defense makes. The Department of Defense should be required to take all steps required by law to preserve its air emission credits for transfer to new users on the base and should not be allowed to transfer the credits off of the base except as part of the retention and transfer plan referred to in (a).

I hope that the Department of Defense will consider these suggestions seriously and make the changes necessary to the Interim Final Rule to allow the Department to fulfill the mandate of Congress and the President to facilitate a speedy economic recovery in base closure communities. If you have any questions about these comments, please feel free to contact me.

Respectfully submitted,



Carl Anthony
Chair/Principal Administrative Officer

CA/rd

THE NATIONAL ECONOMIC DEVELOPMENT & LAW CENTER
2201 Broadway Suite 815, Oakland California 94612
Phone: 510/251-2600 Fax: 510/251-0600 HandsNet: HN0186

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F A X C O V E R S H E E T

TO: Whom it may concern
FAX NUMBER: (703) 695-6929
PHONE NUMBER: (703) 697-1771
ORGANIZATION: Office of Assistant Secretary of Defense
(Base Conversion)
FROM: Benjamin Quinones
DATE: July 5, 1994
RE: Comments concerning Revitalizing Base Closure
Communities and Community Assistance --
Interim Final Rule

Number of pages, including this one: 8

Initial of person sending: [Signature]

COMMENTS:

Please call with any questions or comments. Hard copy to follow shortly.

[Signature]

THE NATIONAL ECONOMIC DEVELOPMENT AND LAW CENTER
2201 BROADWAY SUITE 815 · OAKLAND, CA 94612 · (510) 251-2600
FAX (510) 251-0600 · HANDSNET 0186

July 5, 1994

VIA FACSIMILE

Office of
Assistant Secretary of Defense (Economic Security)
The Pentagon Room 3D814
Washington, DC 20301-3300
(703) 614-9284 fax Attention Col. Bingham
(703) 695-6929 fax

RE: Comments concerning Revitalizing Base Closure Communities
and Community Assistance -- Interim Final Rule

Rules Docket Clerk:

The National Economic Development and Law Center is a nonprofit technical assistance institution that applies legal and planning expertise to the challenge of improving the qualities of life in poor communities. We work with a broad range of community organizations to plan, implement, monitor, and evaluate neighborhood revitalization strategies. We have over twenty-five years of experience in Community Economic Development (CED) on behalf of disadvantaged and distressed communities. We have worked extensively with local communities regarding government-sponsored redevelopment, employment training, hiring preferences, new venture development, affordable housing development, and many other areas of CED directly relevant to base reuse. Based on our extensive relevant experience, and based on significant discussions with a broad array of client groups and other representatives, we respectfully submit the comments that follow.

These comments address the broad philosophical and policy issues that the Department of Defense (DoD) regulations present. We have also joined in submitting related, and more detailed, comments under the auspices of the Legal Services Task Force on Military Base Closures. Please contact the undersigned if you would like elaboration on, or clarification of, any of these comments.

A. Define the Correct Emergency

The President's five-part plan rightly identifies replacing jobs as the fundamental priority for activities in base closures. A region facing a base closure faces a dire emergency. As found by Congress in the Pryor Amendments, "a military installation is a significant source of employment for many communities, and a closure or realignment of an installation may cause economic hardship for such communities." 10 U.S.C. 2687 note. Likewise, the summary to these regulations recognizes that:

a military base often represents a major employment center and a significant economic stimulus for the local economy. With its multi-million dollar payrolls a base closure can be a serious blow to the local communities. . . . Rapid redevelopment and the creation of new jobs in base closure communities are the goal of the new initiative.

Clearly, replacing jobs is the primary federal and local concern. This focus is proper.

However, these regulations must be more careful in defining the emergency communities facing a base closure will encounter. The primary emergency is the loss of income for civilian employees on that base. There is no emergency concerning use of the base land itself. The defense activity that took place on the base had extraordinarily low economic multipliers in the surrounding community and the economic activity that took place on the base was usually irrelevant to the economic activity in the surrounding area. Although a base closure is often compared to an industrial plant closure, this comparison is usually inapt. Military bases are extraordinarily self-contained. Moreover, the "goods" they provide are not consumed regionally, nor do they generate the networks of local suppliers and producers of related goods and services an industrial plant typically generates. Although we must replace the lost income streams of civilian employees, there is no necessary connection between replacing the lost income streams and using the land of the closed base to replace those income streams.

Rather than a fundamental tool in resolving the emergency of lost income streams, the base land should be viewed as an independent opportunity for the region to pursue social and economic goals that it has not had the opportunity to pursue earlier. For example, the need for affordable housing, and homeless services has reached emergency proportions across the nation. The base land should be viewed as an opportunity to address these social issues through long-term planning.

In properly identifying the emergency that a community with a closing base faces, it is important to recognize that many neighborhoods near closing bases have suffered high unemployment and enjoyed little economic benefit from previous military defense expenditures. In the San Francisco Bay Area, West Oakland, Bayview/Hunter's Point, and Marin City neighborhoods leap to mind as examples of this neglect. Far too many cities and self-appointed reuse entities are limiting their scope and approach to assisting former DOD employees who are displaced by a closing base. Clearly, displaced workers deserve concern and consideration in the reuse process. However, the concern and effort cannot end there. Those people who have never benefitted from defense expenditures (who never had the opportunity to be RIFed from a DoD job) in the region must also benefit from base conversion efforts. The DOD should not allow local authorities to focus solely on displaced DOD civilian employees in their retraining, employment, and other reuse efforts.

Finally, given the massive expenditures necessary to clean up and improve the infrastructure of a former military base, that property will be a comparatively expensive site on which to generate employment and income streams. In terms of replacing a lost income stream, our experience dictates that the DOD and local reuse authorities should look most carefully at existing enterprises in the regional economy to determine where it is best to allocate resources to generate employment and income streams. Next, these authorities should look at ways to ensure that the jobs that are created through government expenditure benefit everyone in the community; particularly those who are chronically disadvantaged.

B. Define Crucial Terms

1. Community

The word "community" is used many times in the interim regulations however, this term is never defined.¹ We believe

¹ Examples of the varied uses of the phrase "community" in the regulations include, "The Military Departments will work with communities to identify eligible entities [for providing McKinney Act services]"; "early identification of homeless assistance requirements for land and buildings at closing bases will permit communities to develop reuse plans" (Section 91.7 (b)(1)); property "surplused to Federal Agency Needs will be reported to HUD: (i) By June 1, 1994, . . . unless the community requests a postponement of the declaration of surplus" (Section 91.7 (b)(3)(i)); and "the Military Departments should make every reasonable effort to assist affected communities in obtaining the

this term should be defined clearly but quite broadly in these regulations. A broad definition of the word "community" is necessary to ensure that a closed base will be planned for and treated as a regional asset rather than as simply the "property" of the city nearest the base. In addition to including many local governmental jurisdictions in the definition of community, these regulations should also ensure that all aspects of the "community" are included in the base reuse planning and implementation process. This includes the non-profit sector, the low-income community and the homeless community in a region.²

Based on the Law Center's many years of experience working in community economic development, we understand both the difficulty and the crucial importance of defining this term. In terms of economic development and federal policy, "community" can mean anything from a local mayor and five cronies, to a regional government entity such as the Association of Bay Area Governments, from a local body comprised of residents of a given geographical area to a collection of people or groups organized throughout or across regions based on an issue they hold dear. Depending on how that term is defined, the groups represented, the decisions made, and the ultimate results will vary wildly. An issue of this importance should not be left to chance or local whim.

The harm of base closure and the loss of income to a region inevitably will fall most viciously upon the low-income residents in a region. Therefore, "community" must be a defined term in these interim regulations and the definition must require adequate and forceful representation of the needs of low-income

personal property." (Section 91.7 (h)(4)).

² Congress has used to the phrase "community" in the base closure statutes in many ways. Importantly, Congress' use in the finding sections of the Pryor Amendments demonstrates that a broad interpretation of the word is appropriate. Congress found, "a military installation [note the singular usage] is a significant source of employment for many communities [note the plural]." Congress also found that the federal government should "facilitate the economic recovery of communities [note the plural] that experience adverse economic circumstances as result of the closure or realignment of a military installation [note the singular]." These findings demonstrate that Congress contemplated what reality dictates: many communities that surround a closing base are adversely impacted by that base closure and therefore, all these communities should have a say in the base reuse planning and implementation.

residents. There also should be a concrete and specific mechanism whereby regional needs can, in fact, be addressed in base conversion. We believe that this should be included in the definition of the word "community."

2. Redevelopment Authority

A related flaw is evident in the definition of the phrase "Redevelopment Authority". The regulations track the statutory language which provides that the Redevelopment Authority can be:

any entity . . . recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation and for directing the implementation of the plan. (Emphasis added).

The regulations give no guidance as to the criteria upon which the Secretary of Defense will rely in choosing to "recognize" an entity as the Redevelopment Authority. While flexibility may be appropriate, we believe that the regulations should include clear guidance that any such entity will only be recognized if there is clear power-sharing and equal decision-making authority divided amongst the several jurisdictions in the vicinity of the base. Moreover, we feel that it is important that this Redevelopment Authority include individuals who are representatives of low-income communities -- not solely government officials. With a Redevelopment Authority that is regionally and economically diverse, one could be confident that the planning and decision-making that emerges will in fact benefit all economic segments in the region and utilize the closing base as an opportunity to fill regional economic and social needs.

3. New Jobs

The interim regulations use the phrase "new jobs" many times. However, the use of this phrase indicates a lack of understanding of where jobs come from, how jobs are produced and the workings of regional job and development markets. The regulations presume that from the relatively simple act of making physical space available on a closed base new jobs magically will be created for the region. This is flatly wrong.

Land or available space does not create jobs. Rather, enterprises or entrepreneurs, entities using new technologies, existing entities that expand, spinoff groups from existing entities, the provision of capital or needed technical assistance, flexible networking and sharing of market information, all these entities, activities or resources create jobs. The simple availability of land (even at subsidized rates) does not create jobs. At best, making the base land available at

an early and subsidized rate will result in enterprises moving from their existing location to a site on the base. If that enterprise moved from a neighboring town, the region has gained nothing. Rather, the federal government has lost revenue and the neighboring town has lost a taxpayer. Moreover, in this age of mass commuting, the enterprise will probably bring its existing employees to its new site on the former base.

On behalf of our clients, and based on our many years of experience in the arduous work of CED, we urge that the newly available land on closing military bases not be used to pirate enterprises from elsewhere in the region. As mentioned earlier, the emergency facing a region is replacing lost income streams for people. The emergency is not finding an immediate use for this land. The base land should be used to help foster new jobs where unique base facilities make that possible and where long-term expansion of existing businesses requires prepared space. Where unique job-creating facilities are not present the base land should be used to meet social needs of the region. These regulations should carefully define the phrase "new jobs" and should strictly limit below market conveyances so as to preclude smokestack-chasing or other "beggar thy neighbor" approaches to economic development on closing military bases.

C. Jobs for Whom?

These interim regulations provide for below market transfers of property or lease-hold interests. We agree that in many instances the below market transfers are entirely appropriate (indeed, the regulations could be further improved to make that process easier). However, we have one major concern. The below market transfers do not require that certain individuals be hired. Should an existing well capitalized business that employs highly trained engineers receive these subsidies solely because it will relocate on the former base land? Of course not -- yet nothing in these regulations would preclude that result.

The below market transfers are all justified on their job creating potential. We must ask: Jobs for whom?³ Many communities are focusing solely on replacing jobs for displaced DOD workers. We believe that such a focus is far too narrow. We believe that any transfer of property, whether via an interim lease at below market rates, or through an economic development conveyance for no initial consideration should have attached to it very strong first source employment provisions for regional disadvantaged workers. Because the federal government is

³ This assumes that in fact new jobs are created rather than simply relocated.

transferring this property, the federal government has the authority to make such mandates nearly absolute and certainly enforceable.

We believe the federal government should not miss this opportunity to benefit the long-term disadvantaged in a regional economy. Long-term unemployed should refer to persons who have been unemployed longer than six months or underemployed for more than 12 months. Persons in transition between jobs or who move into the area in order to benefit from the program should not be its primary beneficiaries. The regulations also should require benchmarks that identify benefit to disadvantaged and long-term unemployed persons.

We hope these broad statements of policy are helpful. Thank you for your time and consideration in evaluating these comments. Please do not hesitate to call with any questions or comments.

Sincerely,



Benjamin Quinones
Attorney

MARTIN MARIETTA SPECIALTY COMPONENTS, INC.

LARGO, FL

PINELLAS PLANT

U. S. DEPARTMENT OF ENERGY

FACSIMILE TRANSMISSION

1057
7/6

DATE: July 5, 1994

TO: Frank Savat

FAX NO: (703) 695-1498

PHONE: (703) 614-5356

AGENCY: Department of Defense - Office of the Secretary

FROM: Dr. Charles A. Hall

PHONE: (818) 541-8007

FAX: (813) 545-6347
(If appropriate)

THIS IS PAGE 1 OF 4 PAGES.

COMMENTS: The following 8 pages contain my comments regarding the interim final rule and the proposed changes for the Department of Defense ruling, "Revitalizing Base Closure Communities and Community Assistance."

Comments on the Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Florida Defense Conversion and Transition Committee
Environmental Sub-Committee
Dr. Charles A. Hall, Chairman

Page: 16157
Column: 2
Paragraph: PART 91 -- [AMENDED]

Recommended Changes:

Part 91 could be clarified to state that often times the cleanup may not be for a long period of time -- especially where the demolition of a building might be required to achieve the cleanup. It will be the community's intent to use facilities for some period of time prior to eventual remediation.

Why:

Contamination often cannot be removed unless the foundation, flooring, etc., are also removed. Furthermore, contamination may be contained in ductwork, etc., that is intended for future use as part of the facility. In many cases, it could be scores of years before the eventual cleanup will take place.

I believe this rule could be clarified to facilitate the transfer of the property and the commitment to eventually perform the cleanup activities. The present value of the cleanup funds could be established and considered during the financial obligations for the transfer.

Name: Dr. Charles A. Hall, Environmental Sub-Committee Chairman
Address: Martin Marietta Specialty Components, Inc.
P.O. Box 2908
Largo, FL 34649-2908
Phone: (813) 541-8007

Comments on the Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
 3D814, The Pentagon
 Washington, DC 20301-3900

From: Florida Defense Conversion and Transition Committee
 Environmental Sub-Committee
 Dr. Charles A. Hall, Chairman

Page: General
Column:
Paragraph:

Recommended Changes:

If at all possible, it would be very appropriate for this rule to provide clarification permitting portions of bases to be removed from the NPL -- while the remaining still-contaminated portions stay on the NPL.

Why:

It is very difficult to obtain bank loans or other economic development loans on portions of a base wherein the whole base is designated for the NPL. Prospective financing agencies generally will not finance an NPL site. It is very difficult for them to understand why a portion of the site is cleaned up, but is still in the NPL.

I believe it would be EPA's intent to re-designate specific portions of a base when the contaminated areas are cleaned up -- or if they were never contaminated by military activities. This would certainly facilitate transfer and alternate-use of at least some portions of the bases.

Name: Dr. Charles A. Hall, Environmental Sub-Committee Chairman

Address: Martin Marietta Specialty Components, Inc.
 P.O. Box 2908
 Largo, FL 34649-2908

Phone: (813) 541-8007

**Comments on the Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94**

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-8300

From: Florida Defense Conversion and Transition Committee
Environmental Sub-Committee
Dr. Charles A. Hall, Chairman

Page: General
Column:
Paragraph:

Recommended Changes:

While it is referenced in several locations throughout the document, could we clearly state that the sharing of profit will be on an overall base level? For instance, if some parcels are sold at a loss and others at a profit, it could be very clearly stated that the profits on the more saleable portions are usable to offset the losses of the less desirable parcels. This seems to be clear on Page 16181 in Item 91.7(e) and on Page 16182 in Item 91.7(f) – but is not as clear in other locations throughout the document.

Why:

It seems apparent that the intent of the document is to share only the net proceeds. Because some parcels won't be sold for many years, particularly the undesirable ones, it may need to be clarified that we do not need to share profits on each sale as the sales occur. Additional clarification could prevent the development of different interpretations of the intent of the rule.

Name: Dr. Charles A. Hall, Environmental Sub-Committee Chairman
Address: Martin Marietta Specialty Components, Inc.
P.O. Box 2908
Largo, FL 34649-2908
Phone: (813) 541-8007

NUMBER	TITLE	FOI_NO.	DATE	CALCULATED
✓ 846	Pollution prevention/recycling	96-F-1481		
✓ 847	Military Technical Revolution	95-F-2398	Jul. 15, 1992	
✓ 848	Joint Reporting Structure Nuclear Weapon Reports	95-F-2058	Dec. 15, 1995	
✓ 849	U.S. Army School of the Americas Training Manuals	96-F-1616		
850	Gulf War Illness Home Page information		28-Jan-97	
✓ 851	Joint Reporting Structure Event & Incident Reports; JS Inst 3150.03	96-F-1553	1-Dec-93	
✓ 852	National Security Council documents and Directives	89-F-2286	1982-1983	
853	Joint Pub 3-07.3; Joint Tactics, Techniques, & Procedures for Peacekeeping Operations	97-F-0415	29-Apr-94	
✓ 854	Roles, Missions, and Functions of the Armed Forces	97-F-0113	15-Apr-93	
✓ 855	Human rights investigations in Honduras; Father Carney		1984-1997	
✓ 856	Revolution in Military Affairs; Low-Intensity Conflict Task Force	96-F-1598	1995	
✓ 857	Statement of Director, Strategic and Tactical Systems before Senate Armed Services Committee--Nonlethal Weapons	97-F-0322	15-Mar-96	
✓ 858	SecDef Meeting with Japanese Prime Minister	95-F-0742	17-Sep-75	
✓ 859	Acquiring Defense Software Commercially	94-F-2088	Jun-94	
✓ 860	Continuity of Operations Software Evaluation	97-F-0489	Jan. 31, 1997	
861	Report-National Defense Authorization Act for FY 96 Review of System for Correction of Military Records		Apr-97	
✓ 862	SecDef Report on Nuclear Attack Submarine Procurement and Technology	97-F-0554	Mar-96	
✓ 863	DoD Electronic Commerce	97-F-0389	25-Nov-96	
✓ 864	Past Performance Information Study	97-F-0389	17-Jun-96	
865	US-Russia Joint Commission on POW/MIA-report		17-Jun-96	
✓ 866	Nuclear/Biological/Chemical (NBC) Warfare Defense-Report to Congress 1996	97-F-0632	Apr-96	
✓ 867	USD(P) Visit to China: 25-28 June Meeting/Events Book	96-F-2104	Jun-96	
✓ 868	JS Report to Congress- 1996 Force Readiness Assessment	96-F-0809	Mar-96	
✓ 869	The Operational Implications of Proliferation IDA Document	97-F-0084	Aug-93	
✓ 870	Nonproliferation of Nuclear Weapons	95-F-2210	1966-1968	
871	Joint Pub 3-05--Doctrine for Joint Special Operations		28-Oct-92	
872	US Personnel Missing, Southeast Asia (and Selected Foreign Nationals		May-97	
873	National Security Counsel documents--NSSD-4, NSSD-2, NSSD-5, NSSD-7, NSDD-257	90-F-0098	1987	

NUMBER	TITLE	FOI NO.	DATE CALCULATED
874	DoD IG Report-Evaluation Report on the Economic Impact of Alcohol Misuse in DOD		2-Jun-97
875	Selected Military Capabilities of the People's Republic of China		Apr-97
876	National Security and the Convention on the Law of the Sea		Jan-96
877	Cybernetics	97-F-0956	Apr-81
878	Defense Science Board Task Force on Vertical Integration and Supplier Decisions		May-97
879	Defense Science Board Task Force: Technology for U.S. Rapid Deployment Forces (U)	92-F-0294	2-Jul-82
880	IG Audit Report: Internal Controls and Compliance with Laws and Regulations for the DoD Consolidated Financial Statements for FY 96		30-Jun-97
881	Assistance and Sales to the Peoples Republic of China	97-F-0754	1975
882	Public Comments ICO Proposed Rule for Part 15 Rewrite, FAR Case 95-029		14-May-97
883	Spaceplane Technology and Research (STAR)	97-F-1207	Aug-84
884	Biological Warfare	97-F-1164	1997
885	Depleted Uranium	97-F-1291	
886	Purchase orders-Use of DoD funds in Guam School System	97-F-1344	1994-1996
887	Memo of Understanding with Israel: Strategic Cooperation	97-F-1646	Dec-81
888	JS Instruction-Officer Professional Military Education Policy-CJCS 1800.01		1-Mar-96
889	Defense Strategic Communication Plan 1997		1997
890	Single Integrated Operating Plan: SIOP-63	95-F-1733	1963
891	Keeping Watch from the Air-Integrated Airborne Reconnaissance Strategy	98-F-0038	1997
892	Defense Airborne Reconnaissance Office Unmanned Aerial Vehicles Program Plan	98-F-0036	Apr-94
893	Executive Summary-The Integrated Airborne Reconnaissance Strategy	98-F-0033	
894	Joint DoD/DoE Surety Plan	97-F-1699	May-92
895	Organization and Functions Guidebook-OSD, Defense Agencies and DoD Field Activities		Sep-96
896	Proliferation: Threat and Response		Nov-97
897	U.S. Military Activities in Rwanda since 1997	98-F-0204	1997
898	Joint Pub 3-61: Doctrine for Public Affairs in Joint Operations		14-May-97

NUMBER	TITLE	FOI NO.	DATE CALCULATED
899	Operation Urgent Fury: Grenada- by Joint History Office		1997
900	Report of the Quadrennial Defense Review		May-97
901	Government Performance and Results Act & Quadrennial Defense Review	98-F-0231	1997
902	Transforming Defense: National Security in the 21st Century-Report of the National Defense Panel		Dec-97
903	DoD Privacy Act Systems of Records Notices		1991 and 1996
904	Proliferation: Threat and Response		Nov-97
905	BMDO Organization Chart & Telephone Directory	98-F-0128	Oct-97
906	Joint Military Operations Historical Collection		15-Jul-97
907	DoD Guide to Marking Classified Documents-DoD 5200.1-PH		Apr-97
908	Index of DoD Privacy Act Systems of Records Notices		Dec-97
909	Health Effects of Kuwait Oil Fire Smoke		1991
910	Annual Report on AFRI Research		1992
911	Chinese Assessment of the Superpower Relationship 1972-1974	98-F-0744	30-Jun-75
912	US-PRC-USSR Triangle: An Analysis of Options for Post-Mao China	98-F-0744	15-Oct-76
913	DoD Dictionary of Military and Associated Terms		23-Mar-94
914	A Recommended Blueprint for the ASD(C3I) and CIO in response to DRI Directive #17		11-Mar-98
915	Joint Pub 1-01: Joint Publication System-Joint Doctrine and Joint Tactics, Techniques, and Procedures Development Program		14-Sep-93
916	Report of the DoD on Base Realignment and Closure	98-F-1274	Apr-98
917	CJCSI 2700.01 International Military Rationalization, Standardization, and Interoperability...	98-F-1106	30-Jan-95
918	DoD International Armaments Cooperation Policy	97-F-0877	23-Mar-97
919	Report by the J-5 to the Joint Chiefs of Staff on Middle East Boundaries	97-F-1045	26-Jun-67
920	Memorandum for Members of the Verification Panel Working Group: SALT Options	94-F-2655(4-Apr-70
921	Readiness Reports to the Chairman, JCS for FY 1996-1997	98-F-0503	1996 and 1997
922	Secretary of Defense Report to Congress: Actions to Accelerate the Movement to the New Workforce Vision		1-Apr-98
923	Operation Tailwind documents	98-F-0452	

NUMBER	TITLE	FOI NO.	DATE CALCULATED
924	Report on Activities and Programs for Countering Proliferation and NBC Terrorism	98-F-1877	May-98
925	Report of Investigation concerning the Missing U.S. Central Command Nuclear, Biological & Chemical Desk Logs		20-Oct-97
926	Environmental Exposure Report: Depleted Uranium in the Gulf		31-Jul-98
927	Joint Pub 6-0 Doctrine for Command, Control, Communications, and Computer (C4) Systems Support to Joint Operations		30-May-95
928	Report by the J-5 to the Joint Chiefs of Staff on U.S.-China Security Relationship	91-F-1710(17-Apr-81
929	CJCSM 3141.01A Procedures for the Review of Operation Plans		15-Sep-98
930	Defense Science Board Task Force on Satellite Reconnaissance		Jan-98
931	DoD Counterdrug Assistance to Mexico	98-F-1287	2-May-98
932	DoD Humanitarian Assistance - FY 96		Apr-97
933	Assessment of NVAVC Capabilities in Cambodia	95-F-0855	Apr-70
934	DoD Biennial Privacy Act Report-CY 96 and 97		18-Jun-98
935	SecDef Weinberger's Oct 1986 trip to India and Pakistan	88-F-1706(Oct-86
936	Facts about the Law of the Sea Treaty		1998
937	ExecSummary-Report of the Commission to Assess the Ballistic Missile Threat to the U.S.		15-Jul-98
938	Joint Doctrine Capstone and Keystone Primer		15-Jul-97
939	Post Traumatic Stress Disorder	98-F-2187	1998
940	Laotian Crisis-Chronology	92-F-0753	1960 to 1961
941	Joint Doctrine Encyclopedia		16-Jul-97
942	Causes of Gulf War Illness	98-F-1953	16-Jul-98
943	Abstract of Deposition of Hon. Richard T. Kennedy at POW/MIA Hearings	99-F-0146	Oct-92
944	Joint Pub 5-00.2--Joint Task Force Planning Guidance and Procedures	99-F-0096	Sep-91
945	Joint Pub 6-02--Joint Doctrine for Employment of Operational/Tactical Command, Control, Communications and Computer Systems		1-Oct-96
946	Joint Pub 3-56.1--Command and Control for Joint Air Operations		14-Nov-94
947	DoD O-2000.12-H--Protection of DoD Personnel and Activities against Acts of Terrorism and Political Turbulence	99-F-0194	Feb-93
948	Joint Pub 3-13--Joint Doctrine for Information Operations	99-F-0331	9-Oct-98

NUMBER	TITLE	FOI NO.	DATE CALCULATED
✓ 949	Joint Pub 3-07.1--Joint Tactics, Techniquet and Procedures for Foreign Internal Defense (FID)	99-F-0726	26-Jun-96
✓ 950	Joint Pub 3-50.2--Doctrine for Joint Combat Search & Rescue	99-F-0727	26-Jan-96
✓ 951	Terror 2000: The Future Face of Terrorism		24-Jun-94
✓ 952	USS PUEBLO	97-M-0277	28-Aug-98
✓ 953	Philadelphia Experiment		1999
✓ 954	Defense Base Closure and Realignment Commission: 1995 Report to the President	99-F-1100	1995
✓ 955	Gulf War Illness		1997
✓ 956	US SOUTHCOM Counternarcotics Campaign Plan	91-F-2088(Apr-99
✓ 957	U.S. Policy on Current Sino-Soviet Differences	98-F-1407	Oct-69
✓ 958	Army School of the Americas Training Manuals SAME AS 849	96-F-1533	1989-1992
✓ 959	Information on LCDR Speicher	00-F-0357	
✓ 960	Kosovo Operation Allied Force After-Action Report	00-F-1052	31-Jan-00
✓ 961	DoD 2001 Budget		7-Feb-00
✓ 962	1999 Report: Premises for Policy: Maintaining Military Superiority in the 21st Century		1999
✓ 963	Insurance Solicitation Practices on DoD Installations	00-F-2275	15-May-00
✓ 964	DoD Base Structure Report		1999
✓ 965	Narrative Summaries of Accidents Involving Nuclear Weapons 1950-1980		Oct-00
✓ 966	DoD Prescribing Psychologists: External Analysis...	00-F-1517	May-98

✓ 967 UNDER SECRETARY OF DEFENSE (POLICY)
1999 SUMMER STUDY FINAL REPORT
ASTIA 2025

968 *Sanborn Phenomena - Buying on a Net assessment Study*

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Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

*1058
7/6*

From: _____
(Activity/Location/Community/Installation/Group)

Page _____

Column _____

Paragraph _____

Recommended Changes:

RELEASE TO GOV'T. OF GUAM

Why:

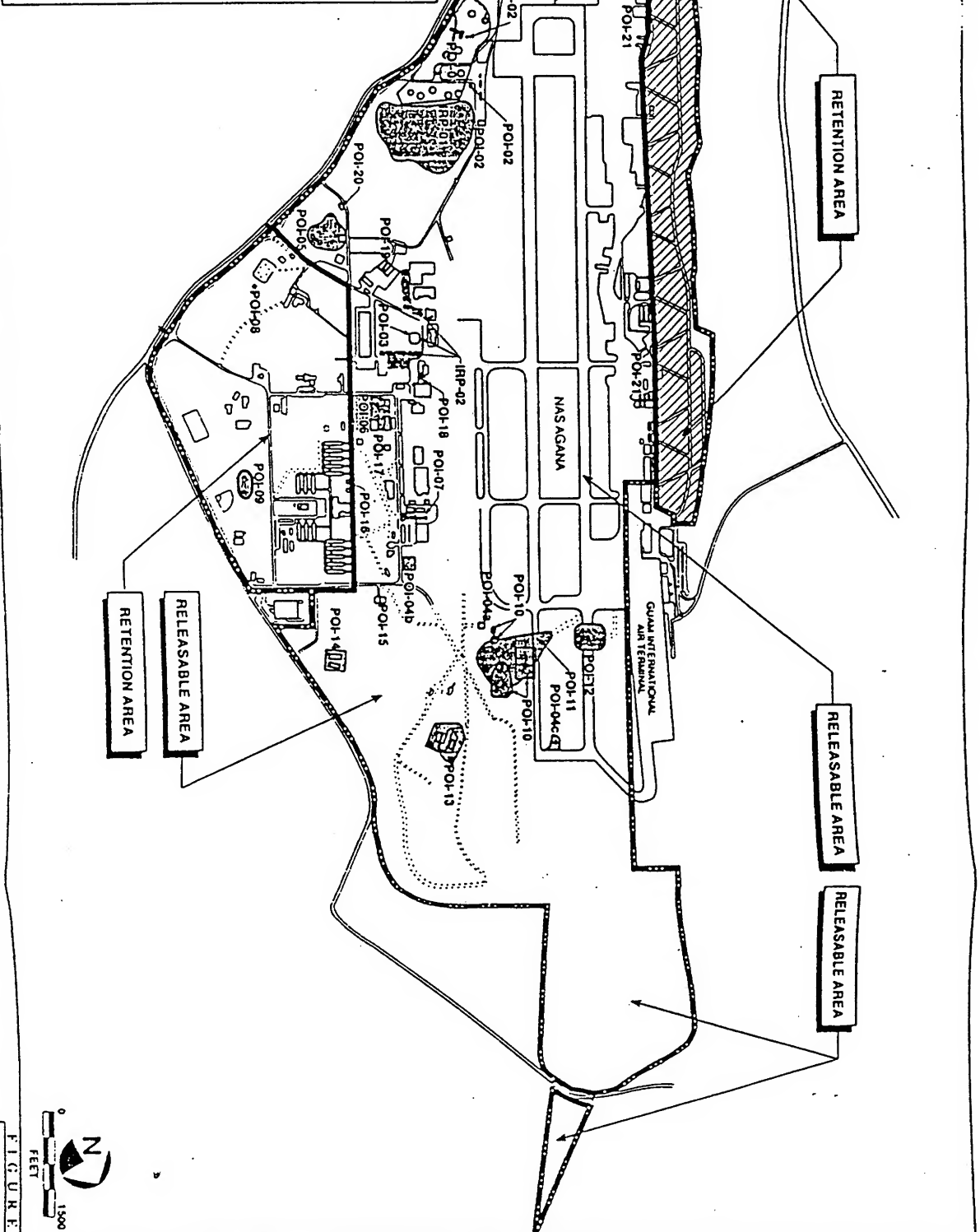
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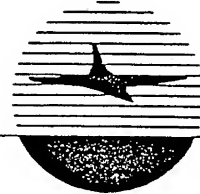
(NOTE: LIMIT TO 1 COMMENT PER PAGE).

- LEGEND**
- IRP-01 SANITARY LANDFILL
 - IRP-02 DRAINAGE BASIN HOLDING POND
 - PO-01 FORMER AND CURRENT TANK FARMS
 - PO-02 TANK FARM HAZARDOUS WASTE STORAGE AREAS
 - PO-03 FORMER AIRCRAFT GRAVEYARD
 - PO-04 TEST CELLS (FORMER AND CURRENT T-56 AND J-57)
 - PO-05 FORMER HOBBY SHOP #4
 - PO-06 GSE MAINTENANCE FACILITY
 - PO-07 HC-5 DRAINAGE
 - PO-08 DISPOSAL AREA BEHIND CB FACILITY
 - PO-09 FORMER GO CART TRACK
 - PO-10 FORMER FIRE FIGHTING TRAINING PIT'S
 - PO-11 FORMER CORAL PIT/DUMP
 - PO-12 FORMER PLANE WASH AREA
 - PO-13 ARMORY AGIT/ENE DISPOSAL AREA
 - PO-14 FORMER PISTOL RANGE
 - PO-15 PWC STORAGE AREA
 - PO-16 PWC BOILER PLANT
 - PO-17 SCE HAZARDOUS WASTE STORAGE AREA
 - PO-18 VO-SINTERCEPTOR DRAINAGE
 - PO-19 PWC MAINTENANCE FACILITY
 - PO-20 FORMER GAS STATION
 - PO-21 FORMER OPERATIONS AREA NORTH OF RUNWAY
 - RETENTION/RELEASABLE AREAS
 - AREAS EXCLUDED FROM SCOPE OF SURVEY



Map of Sites Under Investigation
NAS Agaña

PEASE DEVELOPMENT AUTHORITY



Mailing: Suite 1, 601 Spaulding Turnpike, Portsmouth, New Hampshire 03801-2833
(603) 433-6088 Fax: (603) 427-0433 TDD: Relay NH 1-800-735-2964

Location Address: Pease International Tradeport, Building 90, Portsmouth & Concord Avenues

July 1, 1994

1059
7/6

Office of Assistant Secretary
of Defense for Economic Security
3D814 The Pentagon
Washington, D.C. 20301-3300

Re: Comments on the Interim Rule Implementing Title 29
of the Department of Defense Rule 1994 National
Defense Reauthorization Act (the "Interim Rule")

Dear Sir/Madam:

We hereby submit the comments of the Pease Development Authority ("PDA") to the Interim Rule. These comments have been segmented individually and incorporated into the suggested format provided to us by the Department of Defense ("DOD").

The comments are based in large part on two principal unifying themes--the need to better integrate an economic development transfer under the Interim Rule with a public benefit transfer under existing law and the need to utilize net profits from a particular economic development property parcel to support the overall redevelopment plan until the property as a whole achieves break-even or profit status. While DOD has recognized that a relationship exists between public benefit and economic development transfer mechanisms, it appears to have assumed that a public benefit transfer is a preferred vehicle for base redevelopment. See Interim Rule, Section 91.7(e)(3). We believe that any such assumption may be unduly restrictive and is not likely to enhance the prospects for effective local redevelopment of former military bases. The profit sharing provisions of the Interim Rule also will not enhance or encourage creative and comprehensive redevelopment efforts.

The PDA is a local "redevelopment authority" as defined in the Interim rule. We currently have control of a substantial portion (approximately 1700 acres) of the former Pease Air Force Base ("Pease") and are seeking transfer of the remaining 1300 acres comprising the former Base. We have spent considerable time considering whether the mechanisms available under the Interim Rule or a public benefit transfer (or a combination of the two) will provide us with the best foundation for implementing our established redevelopment plan. We have also received considerable input from a variety of local sources,

including the municipalities most directly affected by the closure of the Pease Base--the City of Portsmouth and the Town of Newington. Our comments to the Interim Rule are based on our experience to date in attempting to redevelop Pease, including our dialogue with the impacted municipalities.

The PDA took control over the first 1700 acres of Pease in April 1992 with the Acceptance by the Air Force of an Amended Application for public benefit transfer for airport purposes and with the execution of a 55 year lease that is in effect pending actual transfer of title in accordance with the Acceptance and Application. Since assuming control, the PDA has concluded a number of important redevelopment transactions, including

- the lease and development by Business Express airlines of a major aircraft maintenance and administrative support facility;
- the construction by Celltech Ltd., a major British biotechnology company, of a drug manufacturing and office facility;
- the development of a regional visa and passport processing facility by the United States Department of State;
- the lease of facilities by a fixed base operator;
- the development of an air passenger terminal and the initiation of air transportation passenger service by Business Express and, for a period of time, United Express;
- the development of a restaurant facility; and
- the development of an occupational health resource center by a local hospital group.

These initial development transactions constitute important redevelopment initiatives of the type contemplated under the economic development conveyance provisions of the Interim Rules. While impressive in scope, the reality of our redevelopment efforts is that Pease will not be financially self-sufficient for some time and, consequently, will require the continued commitment of government resources. With the exception of the fixed base operation, restaurant and occupational health facilities, each of the transactions listed above have been realized only through public financial assistance. The costs of

maintaining and operating Pease to date, and for at least the next several years, will not be met through revenues generated by Pease, but will require considerable financial assistance from the State. To date, the State has allocated \$170,000,000 in funding (including approximately \$41,000,000 in bond guarantees).

The PDA and the State of New Hampshire are committed to continue to implement our redevelopment plan for Pease. We also enjoy the general support of the local communities, the representatives of which recognize the importance of redevelopment of Pease to their local economies. Our redevelopment plan can be implemented only if additional revenue sources are made available, however. The remaining 1300 acres of Pease that are now available for additional transfer are a critical source of additional revenues. Included in this area is a golf course that PDA has operated for the past years which produces net revenues of \$250,000 per year. (Commencing July 1, 1994, under current policies, the PDA will pay the Air Force a rental charge of \$100,000 per year for the golf course).

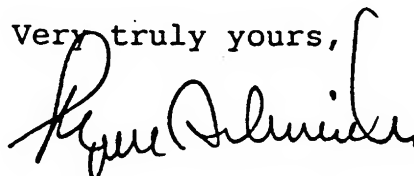
In recognition of the importance of the anticipated revenue stream from the golf course, as well as the fact that PDA believes that it can be effectively redevelop the remaining areas of Pease, the, PDA submitted an amendment to its public benefit transfer application seeking the additional 1300 acres, including the golf course by public benefit transfer for airport purposes. This amendment was filed with the expectation that PDA would also examine the transfer mechanisms available under the Interim Rule to determine if such mechanisms would provide an alternative that would enhance the prospects for redevelopment.

The insight provided by our development experience with a public benefit airport facility, our analysis of and informative discussions with DOD and the Air Force about the Interim Rule, and input from local communities indicate that the best approach to redevelopment of the remaining areas would be either to segment the remaining areas into economic development transfer and public benefit transfer airport purpose separate areas or to structure the economic development transfer conditions in such a way as to allow such a transfer to supplement the public benefit transfer property in a more effective way. This latter approach can be done by recognizing the need to utilize economic development transfer revenues to help offset any deficit of the public benefit transfer facility. Such an approach enhances the goals inherent in the public benefit transfer statutes. [Expand]

Office of Assistant Secretary
of Defense for Economic Security
July 1, 1994
Page 4

Our experience to date also suggests that, in any case, "net profit" from economic development transfer property should not be paid out annually on a parcel by parcel basis, but should be available for a number of years to offset any deficit from the operation of and redevelopment efforts in connection with the economic transfer property as a whole. We suspect that our experience in this respect is not unique but will also be shared by other redevelopment authorities. This likelihood appears to be recognized by DOD in the policy statement to the Interim Rule. See Section 91.7(e)(1) at end. It is only through effective, integrated management of all resources that a comprehensive redevelopment plan can be effected and the concomitant employment goals and necessary stimulus to local and regional economies can be realized.

Very truly yours,

A handwritten signature in black ink, appearing to read "L. Eugene Schneider". The signature is fluid and cursive, with a large initial "L" and "E".

L. Eugene Schneider
Executive Director

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Pease Development Authority
Activity/Location/Community/Installation/Group

Page 16130
Column 2
Paragraph 91.7(c)(1)

Recommended Changes: Add the following new sentence to Section 91.7(c)(1):

The Interim Rule should recognize the taxation of property transferred under any of the transfer mechanisms should be allowed to the extent authorized under state law. With respect to property transferred under Section 91.7(e), any taxes paid by a local redevelopment authority directly to a municipality should be recognized as operating expenses for purposes of calculating "net profit" under Section 91.7(f). This can be done either through a provision in part 91 or a clear statement of policy in Section 90.Y.

Why:

In addition to creation of new jobs, the most significant benefit that redevelopment of a closed Base can provide is an expansion of the municipal tax base.

Name: Lynn Marie Hummel, Esquire
Address: Pease Development Authority
Suite 1, 601 Spaulding Turnpike
Portsmouth, New Hampshire 03801-2833

Phone: (603) 433-6348

Format For Comments On The Interim Rule

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Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Pease Development Authority
Activity/Location/Community/Installation/Group

Page 16130
Column 2
Paragraph 91.7(c)(1)

Recommended Changes: Add the following new sentence to Section 91.7(c)(1):

"A redevelopment plan for a 1988 and 1991 base closures and realignments previously adopted as the proposed action in connection with the transfer of said base by a Military Department under a record of decision (following environmental analysis required by NEPA) shall constitute the local redevelopment plan upon which a transfer under Section 91.7 can be effected."

Why:

This change recognizes that redevelopment plans already underway are appropriate for Section 91.7 purposes and is consistent with DOD's overall stated policy of achieving rapid economic recovery through locally developed reuse plans.

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Address: Pease Development Authority
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From: Pease Development Authority
Activity/Location/Community/Installation/Group

Page 16131
Column 2
Paragraph 91.7(e)(1)

Recommended Changes: Add the following new sentence to Section 91.7(e)(1)

"No provision of these regulation shall be utilized or interpreted to preclude a local redevelopment authority from electing more than one mechanism to acquire all or any portion of an installation under applicable law. For example, portions of a former base for which an economic development transfer is sought may be segmented and a portion added to an existing or related public benefit transfer property if the redevelopment authority requests such an approval."

Why:

This change allows the local redevelopment authority the flexibility to utilize more than one transfer mechanism in proceeding to implement its redevelopment plan. (See also related suggested to Section 91.7(e)(3).)

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Address: Pease Development Authority
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Portsmouth, New Hampshire 03801-2833

Phone: (603) 433-6348

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From: Pease Development Authority
Activity/Location/Community/Installation/Group

Page 16131
Column 3
Paragraph 91.7(e)(3)

Recommended Changes: Revise Section 91.7(e)(3) to read as follows:

"The economic development conveyance authority is an addition to existing public benefit authorities and, generally, should not be used when these public benefit authorities would apply or should be used in such a manner as to enhance, otherwise support, or not hinder the operation or development of an existing or related public benefit transfer property. The Military Department shall prepare a written explanation why a transfer was made using the economic development conveyance authority for what appears to be a purpose covered by an existing public benefit authority or the manner in which utilization of the economic development transfer authority as proposed by the local redevelopment authority enhances, otherwise supports, or does not hinder the operation or development of an existing or related public benefit transfer property."

"If no qualified entity has submitted an application for a public benefit transfer, and the Military Department determines that no such application is likely to be submitted, then the Military Department may utilize the economic development conveyance authority without need for further explanation."

Why:

This change will provide flexibility to a local redevelopment authority to enhance the opportunities for redevelopment of the base by utilizing an economic development transfer in combination with or in lieu of a public benefit transfer. It will also relieve the Military Department from the need to make a written explanation where there is no expressed interest in a public benefit transfer from a qualified transferee.

Name: Lynn Marie Hummel, Esquire
Address: Pease Development Authority
Suite 1, 601 Spaulding Turnpike
Portsmouth, New Hampshire 03801-2833
Phone: (603) 433-6348

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From: Pease Development Authority
Activity/Location/Community/Installation/Group

Page 16132
Column 3
Paragraph 91.7(f)(4)(iii)

Recommended Changes: Section 91.7(f)(4)(iii) allows the U.S. Government to "intervene" in certain "straw" sales or lease transactions, including transactions at less than arm's length. This provision should be revised to recognize that a transaction between related governmental units (e.g., a local redevelopment authority and a state or state agency) are not subject to intervention if the use is consistent with the redevelopment plan. In addition, to avoid a potential concern over attracting private financing of redevelopment projects, this provision should be limited to allow government objection only within a limited time period (i.e., 60 days) following notice of the proposed transaction.

Why:

See discussion above.

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Address: Pease Development Authority
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Portsmouth, New Hampshire 03801-2833

Phone: (603) 433-6348

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From: Pease Development Authority
Activity/Location/Community/Installation/Group

Page 16132
Column 3
Paragraph 91.7(f)(4)

Recommended Changes: The following new provisions should be added at the end of
Section 91.7(f)(4):

(vi) "Notwithstanding any other provision of this regulation, the net profits from a sale or lease may be deposited by the local redevelopment authority into a reserve account and may be utilized by the authority to meet the costs of roadways, utilities (including water and sewer) or other infrastructure improvements that provide benefit to the economic development conveyance property. All such profits (including interest earned on the reserve account) not utilized by the local redevelopment authority to meet actual costs incurred by it in connection with such allowed improvements at the end of five years following deposit into the reserve account shall be paid forthwith to the Government and to the local redevelopment authority in accordance with the allocation formula set out in Section 91.7(f)(2). In the event the economic development conveyance property as a whole has not achieved break even or profit status (i.e., the point at which revenues equal or exceed the costs of maintaining and operating the property, including reserves and debt service payment obligations), then the period in which the redevelopment authority may utilize the reserve account to pay for allowed improvements shall be extended until break-even or profit status is achieved. If break-even or profit status is not achieved within the fifteen year period specified under Section 91.7(f)(1), the reserve account shall be allocated in its entirety to the local redevelopment authority."

Why:

Redevelopment of a base can be enhanced when cash flows from individual transactions are available to meet the costs necessary to provide appropriate support facilities. Indeed, in many instances, these cash flows are the only source of funds for said improvements outside of governmental grants.

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Phone: (603) 433-6348

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Washington, DC 20301-3300

From: Pease Development Authority
Activity/Location/Community/Installation/Group

Page 16133
Column 1
Paragraph 91.7(f)(6)

Recommended Changes: The Following new subsection should be added following Section 91.7(f)(6):

"(7) A local redevelopment authority that receives an economic development transfer in connection with an existing or related public benefit transfer shall be allowed to utilize revenues from any or all economic development transfer parcels to meet any deficit at the public benefit transfer property between revenues and operating and administrative costs (including appropriate reserves and any tax payments required to be made by the local redevelopment authority under state law) and the use of such funds to meet such deficit shall be an offset against revenues for any economic development transfer parcel in determining "net profit" under this Section 91.7(f)."

Why:

This change will provide flexibility and incentive to a local redevelopment authority to enhance development of the public benefit transfer property. See discussion on Section 91.7(e)(3).

Name: Lynn Marie Hummel, Esquire
Address: Pease Development Authority
Suite 1, 601 Spaulding Turnpike
Portsmouth, New Hampshire 03801-2833

Phone: (603) 433-6348

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Washington, DC 20301-3300

From: Pease Development Authority
Activity/Location/Community/Installation/Group

Page 16130
Column 3
Paragraph 91.7(d)(2)

Recommended Changes: Add the following provision to Section 91.7(d)(2):

"The Military Department and its appraisers shall consult with a local redevelopment authority during the preparation of any appraisals under this Section and shall take into account information provided by the redevelopment authority relevant to the establishment of fair market value of the property. The Military Department shall also provide a local redevelopment authority with: (i) a copy of any appraisal of fair market value upon completion of the same and; (ii) an opportunity to submit comments to such appraisal report. The Military Department shall take said comments into account before making the appraisal report final."

Why:

This change enhances the appraisal process by requiring input from the redevelopment authority, which will likely be in a better position to convey pertinent local information that will have an impact on property valuation.

Name: Lynn Marie Hummel, Esquire
Address: Pease Development Authority
Suite 1, 601 Spaulding Turnpike
Portsmouth, New Hampshire 03801-2833

Phone: (603) 433-6348

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Pease Development Authority
Activity/Location/Community/Installation/Group

Page 16132
Column 2
Paragraph 91.7(f)(1)

Recommended Changes: Add the following new sentence to Section 91.7(f)(1):

"The 15 year time limit on profit sharing shall commence on the first date in which the local redevelopment authority assumes control of the property whether by conveyance of fee or by lease, including a lease pending conveyance of fee title."

Why:

This change clarifies the commencement of the 15 year period, particularly where lease transactions may be involved.

Name: Lynn Marie Hummel, Esquire
Address: Pease Development Authority
Suite 1, 601 Spaulding Turnpike
Portsmouth, New Hampshire 03801-2833

Phone: (603) 433-6348

7-ellen 10/12/94
Steve K-

EAST BAY REGIONAL PARK DISTRICT

1934
1994

June 24, 1994

BOARD OF DIRECTORS

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The Honorable Kenneth Flann
Deputy Assistant Secretary of Defense
for Economic Security
Room 3D854
The Pentagon
Washington, D. C. 20301

Dear Mr. Flann:

Our agency has received a copy of the Interim Final Rule intended to implement Title XXIX of the National Defense Authorization Act for Fiscal Year 1994 and the President's five-part plan to revitalize base closure communities.

We are pleased with your effort to clarify the various regulations which will provide a logical set of guidelines and procedures for the vital base closure activity. In this sense, we wish to present to you specific proposals which we believe will contribute additional clarity and which will provide a process which is quite consistent with the Federal Government's stated overall philosophical intent in regard to base closure.

Our recommendations are as follows:

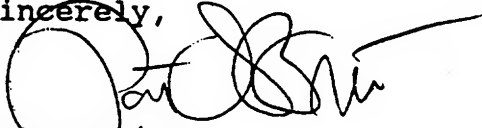
1. The beneficial use category, as defined, should specifically identify park and recreation in the listing of appropriate activities which qualify for beneficial use conveyance. It is our understanding that heretofore in regard to all recent base closures parks and recreation activities were inevitably accorded beneficial use status, and certainly it is desirable that park and recreation be included in the interim final rule designation.
2. Although in various sections of the interim final rule plan it is clear that beneficial use shall be placed at the same level of priority as economic redevelopment (particularly when so stated by the impacted base closure community), the language of the proposed plan appears to be inconsistent in

this regard. It appears essential that a review of the total document be made in order to insure that the sentiment of equal priority for beneficial use with economic development is communicated as a basis for decision-making.

3. Although beneficial conveyances are recognized, in general terms, as a priority, nevertheless in the procedural sections they are not included. This should be changed to establish the significant procedural importance of beneficial conveyance.
4. We believe it would be of value to include a statement in the plan establishing that a local redevelopment authority can exclude from sale of public property these properties which it deems of value for beneficial conveyance.

We applaud your agency for its effort to encourage local participation in the decision-making process of this vital issues.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pat O'Brien', with a large, stylized initial 'P' and a long horizontal flourish extending to the right.

Pat O'Brien
General Manager

POB:lm

cc: EBRPD Board of Directors

FORMAT FOR COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

1061
7/6

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: AGMC/CC

Page:

Column

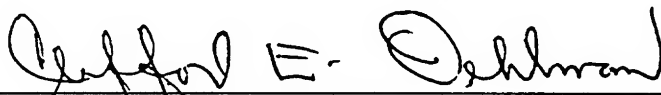
Paragraph: 91.7(h)(5)(v)

91.3(I)

91.3(e)

Recommended Changes: Do these definitions and/or requests generate from the screening requirements of AFR 67-91, paragraph 6? If not, what procedures for screening are to be followed.

Why: Request clarification regarding the screening procedures. Are all agencies required to screen in accordance with AFR 67-91, paragraph 6? If material is designated as potentially enhancing the reuse of the real property and is needed to support the redevelopment plan, does it go through any AFR 67-91 screening?



Name: CLIFFORD E. OEHLMAN
Deputy to the Commander
Address: 813 Irving-Wick Dr W.
Newark AFB OH 43057-0036

Phone: 614-522-7335

FORMAT FOR COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94


Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: AGMC/CC

Page 16134
Column
Paragraph Section 91.7(d)(6)

Recommended Changes: Section 91.7 (d)(6). Include the phrase "... or equivalent amount" to the end of this sub paragraph.

Why: This addition would allow Local Redevelopment Authorities (LRA) to exercise their leverage in purchasing the installation by giving consideration in kind, tax credits, rent reductions or other similar benefits to thus make their acquisition package more competitive, but not require massive up-front capital investment that small communities could not provide. This addition would then allow the LRA to still be an active player in the process if this process (sale of property) is required.



Name: JOSEPH M. RENAUD, Col, USAF
Commander
Address: 813 Irving-Wick Dr W.
Newark AFB OH 43057-0036

Phone: 614-522-7335

FORMAT FOR COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

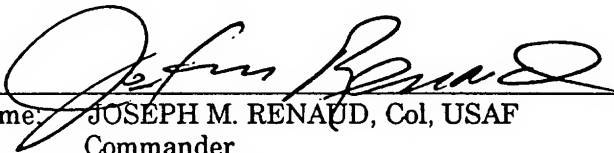
Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: AGMC/CC

Page 16131
Column
Paragraph Section 91.7(d)(4)

Recommended Changes: Section 91.7 (d)(4). Please identify the specific "high value installations" that will be covered by this sub paragraph, and thus indicate in advance where this criteria will be applied. Describe the specific criteria and factors used to determine that this sub paragraph applied to each selected installation.

Why: Communities and the services deserve to be informed of which criteria and processes will or will not be applied to their facilities. Implementing this change will allow LRA's to include the "high value installation" process into their redevelopment planning and timeframes, and will allow the owning service to include the process in their disposal planning process.



Name: JOSEPH M. RENAUD, Col, USAF
Commander

Address: 813 Irving-Wick Dr W.
Newark AFB OH 43057-0036

Phone: 614-522-7335

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National Defense Authorization Act for FY94


Forward comments to: Office of Assistant Secretary of Defense for Economic Security
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Washington, DC 20301-3300

From: AGMC/CC

Page 16130
Column
Paragraph Section 91.7(d)(3)(i)

Recommended Changes: Section 91.7(d) (3) (i). Include the following in the list of requirements for "expression of interest": expected duration and wage structure for the created jobs, evaluation of the value of the personal property expected to be conveyed with the land and buildings, environmental impacts of the proposed work, and whether the expression will allow government officials to maintain management controls of government controls of government processes that will continue at the site.

Why: Inclusion of the listed items will ensure that the LRA will be able to fully determine the economic and redevelopment impacts of the "expression of interest", and thereby be able to determine if that proposal is the best reuse alternative available.



Name: JOSEPH M. RENARD, Col USAF
Commander

Address: 813 Irving-Wick Dr W.
Newark AFB OH 43057-0036

Phone: 614-522-7335

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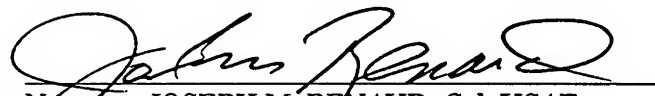
From: AGMC/CC

Page: 16130
Column
Paragraph Section 91.7(d)(3)

Recommended Changes: Section 91.7(d)(3) Change this section to allow the advertisement for expressions of interest to occur concurrently with the McKinney Act Screening process, instead of advertising at the completion of the McKinney Act process.

Why: (1) To procedurally enact the intent of this rule, as given in section 91.7(d)(3)(i), where the rule states "Advertisements for expressions of interest will be conducted simultaneously with all other disposal actions and are not an additional step in the disposal process".

(2) To allow faster execution of the disposal sub processes, which will result in the service and the community understanding all impacting factors and alternatives as soon as possible, thereby allowing the most appropriate reuse and disposal decisions to be made.


Name: JOSEPH M. RENAUD, Col, USAF
Commander

Address: 813 Irving-Wick Dr W.
Newark AFB Oh 43057-0036

Phone: 614-522-7335

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Forward comments to: Office of Assistant Secretary of Defense for Economic Security
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Washington, DC 20301-3300

From: AGMC/CC

Page 16127
Column
Paragraph Section 91.3(b)

Recommended Changes: Section 91.3(b), Definition of Closure. Expand the definition of closure to allow for the continuation of specific military missions at a location, such as Privatization-In-Place (PIP) and the continuation of AF Metrology Management at what was Newark AFB. The AGMC Maintenance and Metrology missions will be continued at the Newark Location under government contract, with government oversight.

Why: This change is one of the key steps in allowing both the continuation of AF mission readiness and the redevelopment of the Heath, Ohio economic structure. This change would also further ensure that the AF could maintain management control over the one-of-a-kind testing facilities that are essential to the operational readiness of the entire AF, while allowing the actual work to be done by private sector companies. This control function would only extend for the life of the contract with the companies that would accomplish the work, and would not require government ownership like an enclave or cantonment area.



Name: JOSEPH M. RENAUD, Col, USAF
Commander

Address: 813 Irving-Wick Dr W.
Newark AFB OH 43057-0036

Phone: 614-522-7335

CITY OF OAKLAND



CITY HALL • ONE CITY HALL PLAZA • OAKLAND, CALIFORNIA 94612

Office of the Mayor
Elihu M. Harris
Mayor

510 238-3141
TDD 839-6451

June 30, 1994

*1062
7/6*

Steven Kleiman, Deputy Director
Office of the Assistant Secretary of Defense for Economic Security
Base Closure and Utilization
The Pentagon - Room 3D854
Washington, DC 20301

Dear Mr. Kleiman:

The City of Oakland would like to forward this letter concurring with the positions taken by the Cities of Alameda, San Francisco and Vallejo which opposes the "ready market" clause in the Pryor Amendment for disposition of properties.

Since the announcement of the Five Point Program, we have seen its underlying goals eroded into a policy that seeks to enhance the Department of Defense's (DOD) financial interests through private sector property sales at the expense of the economic recovery of our affected communities. First, we saw the "Pryor Amendment" to the National Defense Authorization Act for the Fiscal Year 1994 watered down as it went through the legislative process. Second, and most disturbingly, we have become aware of the unfortunate policy choices incorporated into the Interim Final Rules promulgated by the Department of Defense on April 6, 1994 to implement Title XXIX of the National Defense Authorization Act for Fiscal Year 1994. These Interim Rules depart dramatically from the stated policies of: (1) job-centered property disposal that provided for rapid transfers of base property to the local community, and (2) fast track environmental clean-up where adequate funding would assure a quick characterization of environmental conditions and a rapid clean-up program to convert environmentally unusable land and buildings into potentially productive assets available to our communities.

We had interpreted the Five Point Program as an encouraging new directive to the Department of Defense to work closely with our communities to achieve rapid economic revitalization through enhanced job creation as its primary goal. Unfortunately, the Interim Rules encourage Department of Defense disposal agents to put base property up for sale to private parties before the land becomes available to communities; moreover, there is no requirement that any sale or disposal of base closure property be in accordance with the community reuse plan, the cornerstone of all federal and local efforts to put the property into productive civilian use.

Office of the Assistant Secretary of Defense for Economic Security

Page 2

June 30, 1994

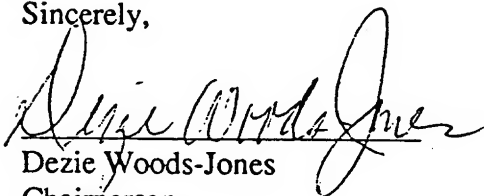
Not only will this process of offering a base for sale be counterproductive, but it sends a clear message to our communities that our ability to achieve our reuse goals and aspirations is in conflict with federal policy. In addition to inhibiting opportunities for job creation, we also believe that these rules will make eventual sale of the property more difficult. The rules appear to encourage piece meal type development and discourages comprehensive planning. This process will reduce return to the federal government through eventual sale of property. The City of Oakland would strongly recommend that DOD convey land and buildings to local Re-Use Authorities at no charge and that Re-Use Authorities should not be required to profit share with DOD for properties conveyed to the Re-Use Authorities.

In addition to the regulatory burdens created by the Interim Rules, we are being told that there are insufficient funds to implement the fast track clean-up policy; therefore, we are now faced with the normal prolonged process of environmental investigation followed by clean-up that has hampered community redevelopment since the 1988 closures were first announced.

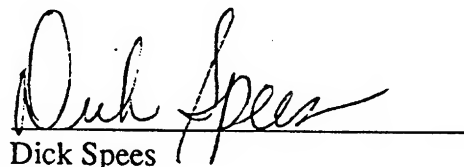
We have many specific concerns with the Interim Rules where it appears clear that the Department of Defense's interests have been placed before those of economic viability and job creation for our communities. Accordingly, we have asked our respective base representatives to prepare and forward a detailed list of our concerns to the Department of Defense as requested in the Interim Rules.

It is clear to us that the translation of the Five Point policy is not being carried out as it was intended to be, and we ask for your assistance in redirecting the Department's priorities so that our hard-hit communities can have the "bright future" that you envision. Specifically, we request: (1) that you direct the Department of Defense to conduct all property disposals in accordance with and in support of the community reuse plan, and (2) that you direct the Department of Defense, in their review of the Interim Rules, to work closely with community leaders and community based organizations to better balance the needs of the Department with the needs of the communities that have supported the Department through the years.

Sincerely,



Dezie Woods-Jones
Chairperson
Oakland Base Closure/
Reinvestment Task Force



Dick Spees
Chairperson
Finance and Legislative Committee
OBC/RTF

Allen Forebeck



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCE



1063
7/6

05 JUL 1994

MEMORANDUM FOR DUSD(L)MRM
ATTN: JOHN MARCUS

FROM: HQ USAF/LGSS

SUBJECT: Comments on the 6 April 94 Federal Register on Closures

Subject Federal Register, pages 16123 through 16136 addressed procedures to be followed in base closures. It indicated that comments must be received by 5 Jul 94 by the Office of the Assistant Secretary of Defense for Economic Development. We believe that our comments should be provided to you rather than directly to Office for Economic Development.

We have suggested changes regarding Personal Property provisions which are on pages 16133 and 16134 (Atch 1). The proposed changes are at attachment 2.

Our POC is Mr Bagg, DSN 227-2431.

Allen W. Beckett

Attachments:

1. Two Pages, Fed Reg
2. Proposed Changes

CC:
SAF/MII
AFBCA/LG

ALLEN W. BECKETT
Sr Analyst, Sup/Fuels Pol Div
Directorate of Supply
DCS/Logistics

(5) The Military Department concerned is authorized to negotiate an up-front settlement of projected recoupment revenues from a conveyance under this section when such settlement is requested by the redevelopment authority.

(6) The provisions of this section may not be appropriate for some of the 1988 and 1991 base closures and realignments, because these bases are so far along in the property disposal process that certain actions have been taken or agreed to that are inconsistent with the new procedures. In cases where the new property disposal process is not appropriate, the Secretary concerned shall request a waiver from the ASD(ES) before proceeding with the disposition of the property.

(g) Leasing of real property.

(1) Leasing of real property is an effective way to quickly attract new jobs to replace those that have been lost by the base closing. In the past, the requirement to lease at fair market value discouraged the creation of new jobs. The new process of leasing, at less than fair market value, where appropriate, will provide new incentives for redevelopment authorities and businesses alike to spur job creation and speed economic redevelopment.

(2) The Secretaries of the Military Departments are authorized by Pub. L. 103-160, section 2906 to lease real and personal property at closing or realigning bases for consideration of less than the estimated fair market value, if the Secretary concerned determines:

(i) That a public interest will be served as a result of the lease.

(ii) That securing the estimated fair market rental value from the lease is not compatible with such public interest.

(3) The Military Departments shall determine the environmental suitability of property to be leased using the procedures in the DoD policy entitled "Procedures for Finding of Suitability to Lease (FOSL)" contained in the Deputy Secretary of Defense Memorandum, "Fast Track Cleanup at Closing Installations", September 9, 1993, and any amendments thereto. Regulatory consultation (Environmental Protection Agency (EPA) and State government) must be completed before entering into any leases, as specified in the FOSL guidance and when approved, the Memorandum of Understanding between DoD and EPA will confirm the FOSL process.

(4) The Military Departments are encouraged to redelegate leasing

authority to the level that can best respond to local redevelopment needs and still exercise prudent and consistent stewardship over these public assets.

(h) Personal property.

(1) Personal property located on closing bases is often very useful to the redevelopment of the real property. This section outlines procedures to allow transfer of personal property with the real property in many cases. It provides for completing an inventory soon after the base is approved for closure, consulting with local officials, and a walkthrough of the base. The community can then identify the personal property it wishes to retain in its redevelopment plan. The Department of Defense will keep a great deal of the personal property at the base while the redevelopment plan is being put together. Only valid exemptions will be made to this freeze, usually involving specific military requirements or property which the base does not own. Emissions trading procedures will be issued separately and are not covered by the part.

(2) Each Military Department and Defense Agency, as appropriate, shall take an inventory of the personal property, to include its condition, at closing or realigning bases as early in the closure process as possible. At realigning bases, the inventory shall be limited to the personal property located on the real property to be disposed of by the Military Department or Defense Agency. The purpose of the inventory is to identify personal property—any property except land, fixed-in-place buildings, ships, and Federal records—that could enhance the reuse potential of real property that may be conveyed to the local redevelopment authority for supporting the economic redevelopment of the base. The exempted categories of personal property listed in paragraph (h)(5) of this section shall not be subject to review by the community. The inventory must be completed by June 1, 1994, for 1988, 1991 and 1993 closures and realignments or within 6 months after the date of approval of 1995 closures.

(3) The inventory shall be taken in consultation with local redevelopment authority officials. If no local redevelopment authority exists, consultation shall be offered to the local government in whose jurisdiction the installation is wholly located, or a local government agency or State government agency designated for the purpose of such consultation by the chief executive officer of the State. Based on these consultations, the base commander is responsible for determining the items or category of items potentially enhancing

the reuse of the real property and needed to support the redevelopment plan. When the inventory is completed, base personnel shall offer a "walkthrough" with representatives of the local redevelopment authority so that they can see the type and condition of the property available for reuse. Disagreements should be resolved within the chain-of-command, with final authority on resolving personal property issues resting with the Secretary of the Military Department or Defense Agency Director responsible for the real property. This authority may be further delegated.

(4) The Military Departments should make every reasonable effort to assist affected communities in obtaining the personal property needed to convert the bases into economically-viable enterprises. Personal property not subject to the exemptions in paragraph (h)(5) of this section shall remain at a closing or realigning base until one of the following time periods expire (whichever comes first):

(i) One week after the date on which the redevelopment plan is submitted to the applicable Military Department.

(ii) The date on which the local redevelopment authority notifies the applicable Military Department that a plan will not be submitted.

(iii) Twenty-four months after the dates referred to in paragraph (h)(2) of this section which for 1988, 1991 and 1993 base closures and realignments is November 30, 1995, or 24 months after the date of approval of the 1995 closures and realignments.

(iv) Ninety days before the date of the closure or realignment of the installation.

(5) Personal property may be removed without regard to these time periods upon approval of the base commander, or higher authority within the Military Department, and after notice to the local redevelopment authority, if the property:

(i) Is required for the operation of a unit, function, component, weapon, or weapon system transferring to another installation. A transferring unit or function may take with it any property needed to function properly as soon as it arrives, provided that suitable replacement equipment will not be readily obtainable there and moving it is cost-effective. In addition to this authority for the transferring unit or function to remove personal property, the major command having jurisdiction over the installation (e.g., the Army's Forces Command or the Air Force's Air Combat Command), or the major claimant having jurisdiction over the installation (e.g., the Navy's U.S.

² Document available from the Office of the Deputy Under Secretary of Defense (Environmental Security), Pentagon, Washington, DC 20301.

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(i) Atlantic Fleet) also may remove property that is needed immediately and is indispensable to an organization under its jurisdiction at another installation for carrying out the organization's primary mission.

(ii) Is uniquely military in character, and is likely to have no civilian use (other than use for its material content or as a source of commonly used components). Classified items; nuclear, biological, chemical items; weapons and munitions; museum property or items of significant historic value that are maintained or displayed on loan; and similar military items fit this exception.

(iii) Is not required for the reutilization or redevelopment of the installation (as jointly determined by the Military Department concerned and the redevelopment authority).

(iv) Is stored at the installation for distribution (including spare parts or stock items). This exception includes materials or parts used in a manufacturing or repair function but does not include maintenance spares for equipment to be left in place.

(v) Meets known requirements of an authorized program of another Federal Department or Agency for which expenditures for similar property would be necessary, and is the subject of a written request received from the head of the Department or Agency. In this context, "expenditures" means the Federal Department or Agency intends to obligate funds in the current quarter or next six fiscal quarters. The Federal Department or Agency must pay packing, crating, handling, and transportation charges associated with such transfers of personal property.

(vi) Belongs to nonappropriated fund instrumentalities (NAFI). NAFI property may be removed at the Military Departments' discretion, because NAFI property belongs to the Service members collectively and is not government property. Therefore, it may not be transferred to the local redevelopment authority under this section. Separate arrangements for communities to purchase NAFI property are possible and may be negotiated with the Military Department concerned.

(vii) Is needed elsewhere in the national security interest of the United States, as determined by the Secretary of

the Military Department concerned.

This authority may not be redelegated. (6) Personal property to be transferred to the local redevelopment authority in support of its redevelopment plan is not subject to sections 202 and 203 of Public Law 81-152, "Federal Property and Administrative Services Act of 1949, as amended" of June 30, 1949, 40 U.S.C. 483-484. If the real property is transferred without consideration, the personal property shall also be transferred without consideration. If the real property is transferred at or near estimated fair market value, the value of the personal property shall be included in the estimated fair market value of the real property. If the property is conveyed separately from the real property, the value of the personal property shall be that at which it is carried on the installation's property account or estimated fair market value as agreed to between the parties at the time of transfer.

(7) In addition to the exemptions in paragraph (h)(5) of this section, the Military Department or Defense Agency is authorized to substitute an item similar to one requested by the redevelopment authority. The substitute items may be drawn from another installation or from the Defense Reutilization and Marketing Service. It is the responsibility of the Military Department or Defense Agency that owns the property to find a similar item that may be suitable as a substitute. In this context, "similar" means the original and the proposed substitute item are designed and constructed for the same specific purpose. However, before substituting another item for the one being requested, the base commander shall consult with the redevelopment authority.

(8) Personal property that is not needed by a major command (or its subordinates), a Federal Agency, or a local redevelopment authority (or a State or local jurisdiction in lieu of a local redevelopment authority) shall be transferred to a Defense Reutilization and Marketing Office for processing in accordance with the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 483 et seq.

(i) Minimum level of maintenance and repair to support nonmilitary purposes.

(1) Facilities and equipment located on closing bases are often important to the eventual reuse. This section provides procedures to protect their condition while the redevelopment plan is being put together. The level of maintenance will be determined in consultation with the redevelopment authority.

(2) Public Law 103-160, section 2902 states that the Secretary may not reduce the level of maintenance and repair of facilities or equipment at the installation below the minimum levels required to support the use of such facilities or equipment for nonmilitary purposes, except when the Secretary of the Military Department concerned determines that such reduction is in the National Security interest of the United States. This requirement remains in effect until one of the time periods in paragraph (h)(4) of this section has expired.

(3) The initial minimum level of maintenance and repair to support nonmilitary purposes shall be determined during consultation between the Military Department and the redevelopment authority. This level and the property to which it applies shall be reviewed with the local redevelopment authority when it presents its final development plan. Where agreement cannot be reached, the Secretary of the Military Department concerned shall determine the level of maintenance required. In no case shall the level of maintenance and repair:

(i) Exceed the standard at the time of approval of the closure or realignment.

(ii) Require any improvements to the property to include construction, alteration, or demolition, except that required by environmental restoration.

(4) The negotiated minimum maintenance agreement must be tailored to the specific non-military uses; but shall include the following:

(i) Maintaining the facilities and equipment that are likely to be utilized in the near term at a level that shall prevent undue deterioration and allow transfer to the local redevelopment authority.

(ii) Not delaying the scheduled closure date of the installation.

Dated: March 31, 1994.

BILLING CODE 5000-04-01

PROPOSED CHANGES TO THE
PERSONAL PROPERTY PROVISIONS OF THE
FEDERAL REGISTER PAGES 16133 AND 16134

Page 16134, left column, sub-paragraph (i) at the top of the page - Add the following at the end: "Prior to taking shipping actions, the owning MAJCOM will ensure that Reserve Component units that remain on the base receive first priority in the selection of mission essential property."

RATIONALE: This would continue the present policy of providing Reserve Component units with an equipment priority when these tenant units remain on the base after the MAJCOM active unit departs. Often equipment is jointly used by active and Reserve Component units. Not providing equipment items to the ANG or AFRES weakens the Total Force Concept at a time when additional missions are being assigned to these Components.

Page 16134, left column, sub-paragraph (iv), delete the second sentence which begins "This exception includes...".

RATIONALE: This will allow the Air Force to redistribute assets to fill known valid requirements. Further, there is no guidance as to what range (depth and width) of levels should be left to support maintenance spares for equipment. Until the reuse plan is complete, this could result in these items being retained until 90 days before closure.

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BUSINESS EXECUTIVES FOR NATIONAL SECURITY

**Comments on Department of Defense Interim Final Rule --
Revitalizing Base Closure Communities and Community Assistance**

July 5, 1994

Submitted By:
Business Executives For National Security
Attn: Keith Cunningham
1615 L Street N.W., Suite 330
Washington, D.C. 20036
(202) 296-2125

Counsel:
Shaw, Pittman, Potts & Trowbridge
Attn: Alexander W. Joel
2300 N Street N.W.
Washington, D.C. 20037
(202) 663-9420

BUSINESS EXECUTIVES FOR NATIONAL SECURITY

Comments on Department of Defense Interim Final Rule¹ "Revitalizing Base Closure Communities and Community Assistance" July 5, 1994

INTRODUCTION

Business Executives for National Security ("BENS")² has long supported the efforts of the Department of Defense to rightsize its military infrastructure so that available funds can be used for military readiness. BENS strongly supported the establishment of the Base Realignment and Closure ("BRAC") Commissions, and has worked closely with the government and the private sector to create an achievable, fair, and objective system for closing unnecessary military bases.³ As part of these efforts, BENS has conducted a unique, ongoing study on how base closure affects local communities.⁴ This ongoing study has shown that the speed with which base property is transferred to the community is critical to a community's recovery.

The President's Five-Part Plan, published on July 2, 1993 ("the President's Plan"), and the Title XXIX of the National Defense Authorization Act of 1994 ("the Act"), addressed many of the concerns BENS had raised about the federal obstacles that were then blocking the communities' path to successful reuse. Both the President's Plan and the Act establish a process that *puts communities first*. The President's Plan and the Act share the same foundation: the best way to assist communities is to clear away federal obstacles so that communities can more rapidly and cheaply obtain base property and begin implementing their reuse plan.

While the Interim Rule has many commendable elements, it establishes a process that fundamentally shifts away from the letter and spirit of the President's Plan and the Act. Instead of putting communities first, the Interim Rule creates a "Job-Centered Property Disposal" process that seems designed more for the benefit of the federal government than for local communities.

¹ 59 Fed. Reg. 16,123 (1994) ("the Interim Rule").

² BENS is a non-partisan, non-ideological and non-profit organization of top business leaders from around the country. BENS' primary purpose is to educate citizens and policy makers about how to achieve a more efficient national security structure by employing successful business planning and management techniques.

³ BENS has provided testimony to Congress on several occasions on how to strengthen the base closure process. BENS has also worked to educate the public and policy makers about base closure, by issuing policy papers, making recommendations to the Executive Branch, and working with the media. Recently, BENS demonstrated its support for the Department's base closure process by participating as an *amicus curae* on behalf of the Department of the Navy in the case of Dalton v. Specter, which was recently decided by the Supreme Court.

⁴ The initial results of this study were published in April 1993 (excerpts attached as Attachment A). Keith Cunningham, Business Executives for National Security, *Base Closure and Reuse: 24 Case Studies* (1993) ("BENS Study").

BENS is concerned that Job-Centered Property Disposal will harm communities in ways that the Defense Department cannot have intended. This process will: (1) take away from communities the very property that is most likely to assist them, (2) leave them saddled with unproductive property which they must develop and market at their own risk, (3) confuse the redevelopment process by creating competing plans and marketing efforts, and (4) result in uses of the property that the community cannot control.

While BENS strongly supports government efforts to dispose of its assets in a manner that maximizes return to the federal taxpayer, BENS is nevertheless concerned that the approach proposed by the Interim Rule is inconsistent with the President's Plan and with federal law, and threatens to set back, rather than advance, communities' redevelopment efforts. BENS urges the Department to reconsider the merits of the Interim Rule in light of its likely impact on local communities.

PROPOSED CHANGES

As the discussion in the next section indicates, the President's Plan and the Act suggest that communities should be conveyed base property directly following the McKinney Act screening period. However, BENS recognizes that it may be more efficient in certain circumstances for the federal government to deal directly with potential users. Therefore, the following recommendations are focused on adjusting the Interim Rule to make it clear that any such direct transfers be made under the local reuse plan.

BENS recommends that Section 91.7(d) of the Interim Rule, which relates to Job-Centered Property Disposal, be redrafted under the following principles:

- The Defense Department and the redevelopment authority should coordinate all efforts to identify potential new uses for base property.
- Following the McKinney Act screening process, available base property should be disposed of in accordance with the local reuse plan.
- Potential users identified by the Defense Department should be subject to approval by the redevelopment authority and should be required to work within the reuse plan.
- Base property that is not conveyed directly to users under the reuse plan should be made available for economic development conveyances to the community, in accordance with statutory and regulatory eligibility criteria.
- "High value" or "readily marketable" property should not be segregated from other property available to redevelopment authorities.
- The "Process Flowchart for Base Closure Community Assistance" should be modified as described in Attachment B, and Section 91.7(d) should be amended to be consistent with the priority sequence established in the flowchart.

BENS will be pleased to supply specific drafting changes on request.

DISCUSSION

1. The Interim Rule Will Create Practical Problems for Communities.

The Interim Rule's underlying assumption is that the federal government will be in as good a position as the local redevelopment authority to determine the type of use that would most benefit the community. BENS' extensive research and study of communities affected by base closure has not shown that greater federal involvement in dictating the final use of closed bases will advance community redevelopment efforts. To the contrary, this process may well cause problems in addition to those already faced by communities.

The points below all share the same fundamental concern: The first "high bidder" identified by the Defense Department may not be best for the community, and it is the community that is in the best position to determine what is in its best interests.

- Section 91.7(d) will undermine the planning process. The Office of Economic Adjustment ("OEA") has long preached to communities the critical importance of planning. Communities are directed:

- ♦ to begin planning immediately,
- ♦ to carefully analyze existing assets and identify potential uses,
- ♦ to establish an integrated multi-use plan that adds the most value to the community with the least social and economic costs,
- ♦ to make the investments necessary to redevelop the property consistent with the intended uses,
- ♦ to market the property to all potentially interested parties, and
- ♦ to immediately begin making zoning and other statutory and regulatory changes required to accommodate the new uses.

Section 91.7(d) throws a wild card into this planning process, making it more difficult for community planners to account for a buyer that deals directly with the Defense Department. Indeed, since the first major user of a base is often the most critical, the community have little choice but to wait for the Defense Department to find a buyer under Section 91.7(d) before embarking on the many other required tasks.⁵

- There is no guarantee that the Defense Department's selected user will be acceptable to the community. First, the community and the Defense Department may disagree on the type of use that would generate the most jobs and would otherwise be of benefit to the community. Second, the Defense Department's choice may have characteristics that the community does

⁵ Federal guidance to communities is contained in several publications, most notably in: President's Economic Adjustment Committee, Department of Defense, *Planning Civilian Reuse of Former Military Bases* (1991).

not favor (e.g., noise pollution, traffic patterns, heavy industrial vs. commercial use). Third, the community may have a different judgment on whether to wait for a more attractive user. Finally, the community and the Defense Department may disagree on the number of jobs a particular user is likely to create.

- Parties interested in base property will be confused. Two potentially conflicting marketing efforts may be underway at the same time. The Defense Department will be "advertising" for bids while the community is implementing the marketing component of the reuse plan. In addition, interested parties will be unsure of whom to contact -- the Defense Department or the community -- to secure rights to the property. This may even provide an opportunity for some potential users to play the community off against the Defense Department to obtain the terms most favorable to the purchaser.
- The policy of selling off the best property -- or of segregating it from the rest when there no valid offers are made -- will saddle communities with the least attractive property without providing them with the income from the most attractive property. Planning and implementing base reuse involves the investment of a great deal of a community's capital, both in terms of funding and human effort. Sales of readily marketable property are used to fund redevelopment of the rest of the base.⁶ Without such valuable property, communities will be left scrambling for resources. A fundamental tenet of the free market is that risk and reward should be related. Under the Interim Rule, the Defense Department will obtain the reward from "easy sales," while leaving the marketing and other risks to the community for the "hard sales" (in which it will share in the profits in any event).⁷ Therefore, any such sales must be made under the local reuse plan and with the approval of the redevelopment authority.

In sum, Section 91.7(d) and related provisions of the Interim Rule should be redrafted to give priority to communities. Not only is this required for successful base reuse, but it is also consistent with what was intended by the President's Plan and the Act, as discussed in the following sections.

2. The President's Plan Puts Communities First.

In announcing the President's Plan, President Clinton established as its centerpiece the commitment that "[f]or communities from coast to coast affected by base closings, the federal government will now work aggressively to help those patriotic citizens, cities and towns prosper. We will help *them* to use *their* valuable assets as engines of economic growth."⁸ President Clinton went on to declare that "if a community has pulled together and produced a real plan for job creation and economic growth, the federal government must pitch in *by giving that base to the*

⁶ The Interim Rule itself recognizes this in Section 91.7(e)(1): "The income received from some of the higher value property should help offset the maintenance and marketing costs of the less desirable parcels. In order for this [economic development] conveyance to spur redevelopment, large parcels must be used to provide an income stream to assist the long term development of the property."

⁷ The taxpayer is adequately protected by the recoupment provisions of Section 91.7(f).

⁸ Press Conference of the President, *et al*, July 2, 1993, p. 2 .

community at a discount or, in some cases, even for free." At that press conference, Secretary of Commerce Ron Brown reinforced this point:

Our defense conversion approach builds on *locally developed strategies*. We think this is crucial to talk to those communities, to talk to business leaders, to talk to community leaders, to get input from them, *to not impose an economic redevelopment plan on them*, but to work with them in developing one.

The Interim Rule, in contrast to this community-centered approach, would in effect impose the federal government's redevelopment plan on communities. The Defense Department, not the communities, would make the decision that is most critical to the successful reuse of the base -- the identity (and therefore the use) of the purchaser of the base's most valuable property.

Significantly, the introduction to the plan that was distributed on the day of the press conference declares: "In a *sharp departure from the past*, the Clinton Administration pledged to give *top priority* to early re-use of the bases' *valuable assets by host communities*." Four elements stand out in this statement. First, this program represents a "sharp departure from the past," a past which was characterized by the Defense Department's seeking the highest bids for base property rather than transferring the property to communities. Second, communities are to get "top priority," not secondary consideration after the federal government puts the bases out to bid. Third, the plan will provide "host communities," not the federal government or some other entity, with early re-use of the bases. Finally, communities will get the bases' "valuable assets," not just the assets that cannot readily be sold.

The Interim Rule contradicts each of these elements. In directing the Defense Department to immediately seek out and sell the base's best property, it does not represent a "sharp departure" from the past of high-value direct sales. In relegating economic development conveyances to the bottom of the disposal priority list (after "valid offers" have been received, after "high value" property has been identified and segregated from other base property, and after "public benefit conveyances" have been made), it certainly does not give such conveyances "top priority." In making the federal government the decisionmaker with respect to the base's critical assets, it does not provide "host communities" with the ability to reuse, early or otherwise, those assets. And in directing the segregation of the base's best property for direct sale by the federal government, it does not give communities the bases' "valuable assets."

Indeed, the version of the President's Plan distributed at the press conference contains no mention of the Interim Rule's direct sale approach. In describing "Job-Centered Property Disposal," the President's Plan discusses not the Interim Rule's approach, but rather commits the Administration to "seek a change in federal law to allow the department to turn over property for economic development when community development plans meet a strict test for economic viability and job creation." No direct sales by the Defense Department are contemplated.

BENS believes that the approach originally set forth by the President is sound and should serve as the basis for the final rule. Communities are in the best position to determine the type of reuse that will most benefit them in terms of job creation. Substituting that judgment with that of

federal decisionmakers, no matter how well-intentioned, will put the communities at greater risk, as will be discussed in a later section.

3. The Act Puts Communities First.

The Act establishes a tightly-knit statutory scheme that focuses on making available base property to communities as quickly as possible. Not surprisingly given their fundamental differences, the Interim Rule's direct sale approach is not mentioned in the Act.

a. The Act Emphasizes Making Available Property to Communities.

Beginning with the Act's findings, it is obvious that the Act's purpose, even its reason for existence, is to provide communities with base assets and federal assistance quickly and efficiently.

The Federal Government may *best contribute* to such reutilization and redevelopment by *making available* real and personal property at military installations to be closed *to communities* affected by such closures on a timely basis, and, if appropriate, at less than fair market value.

Section 2901(7). Section 2903 of the Act goes on to amend the Base Realignment and Closure Act of 1988 ("the 1988 Act"),⁹ and the Base Realignment and Closure Act of 1990 ("the 1990 Act"),¹⁰ by adding provisions authorizing the Defense Department to transfer base property to local communities at below fair market value or for no consideration.

Significantly, the Act provides for recoupment of the fair market value of such property by profit sharing. Congress established this mechanism for the Defense Department to recover the fair market value of property conveyed to communities at low or no cost, thereby minimizing the risk of loss to the taxpayer while providing the property to the communities for economic development. Thus, Congress directly addressed the concern that apparently underlies the Interim Rule's direct sales approach -- the federal government will be made whole, through profit-sharing, up to the full fair market value of any property transferred to communities at low or no cost (other than rural communities). Because Congress struck this careful balance between the need for the federal government to be made whole with the need to assist impacted communities, care should be taken before altering the priority sequence. At a minimum, the Interim Rule should be modified to make clear that any transfers during the period must be made in accordance with the local reuse plan and with the redevelopment authority's approval.

Also significant are the Act's directions to the Defense Department on preparing regulations. The Act makes no mention of directing or otherwise authorizing the Defense Department to establish a procedure not contemplated by the Act. Rather, it contains particularized directions for the Defense Department to implement regulations for specific purposes. Section 2903 directs the Defense Department to implement regulations (1) to set forth

⁹ Pub. L. No. 100-526, Section 101 *et seq.* (codified at 10 U.S.C. Section 2687).

¹⁰ Pub. L. No. 101-510, Section 2901 *et seq.* (codified at 10 U.S.C. Section 2687).

guidelines for determining the amount, if any, of consideration in low or no-cost transfers to communities, (2) to determine when a community is eligible for a no-consideration transfer as a "rural community," and (3) to determine the amount of recoupment. The Interim Rule thus breaks new ground.

As shown by the legislative history, the intent of these provisions was to give communities more control over base redevelopment. The 1993 Senate Democratic Defense Reinvestment Task Force, which developed the "Pryor Amendment," gave as its primary recommendation that the federal government take affirmative steps to "empower base closure communities." In addition, the conference report on Act stated as a key guiding principle for the drafters that "*the primary responsibility* for shaping and implementing this redevelopment *rests with the local community*." House Conf. Rep. No. 103-357, p. 804.

b. The Act Requires Consideration of Local Redevelopment Plans.

While the "economic development conveyance" authority under Section 2903 is discretionary, Section 2903 also imposes two mandatory requirements on the Defense Department. First, as part of any property disposal process under a base closure law, "the Secretary *shall take into account* the redevelopment plan developed for the military installation involved." Section 2903(c). Second, the Secretary "*shall cooperate . . . with the redevelopment authority . . . in implementing the entire process* of disposal of the real and personal property at the installation." Section 2903(d). Thus, the Act gives the Defense Department the clear directive to work closely with local communities throughout the disposal process. These mandates reinforce that already contained in prior base closure law.

Before *any action* may be taken with respect to the disposal of any surplus real property or facility located at any military installation to be closed or realigned under this part, the Secretary of Defense *shall* consult with the Governor of the State and the heads of the local governments concerned for the purpose of *considering any plan for the use of such property by the local community concerned*.

Section 2905(b)(2)(E) of the 1990 Act¹¹.

Under the Interim Rule's direct sales approach, the Defense Department would bypass the local communities to convey property directly to outside bidders, with no requirement for compliance with the local reuse plan (other than "encouragement" under Section 91.7(d)(3)(ii) of the Interim Rule).

¹¹ Note that this provision qualifies the Secretary's authority to dispose of property under the Federal Property and Administrative Services Act of 1949, 40 U.S.C. Sections 483-484. Thus, the Secretary's discretion under that statute is constrained by requirement to consider local reuse plans.

c. The Act Gives Communities Priority Second Only to the Homeless.

Perhaps the clearest example of the inconsistency between the Interim Rule and the Act appears in the treatment of the accelerated McKinney Act screening process. The reason the Act accelerates the McKinney Act screening process is to help communities obtain the property more rapidly. Indeed, Section 2905 of the Act contemplates that communities would be given priority consideration to obtain the property as soon as the accelerated screening process is completed.¹²

Thus, Section 2905 gives communities what the President promised, "top priority" following McKinney Act screening.¹³ Notwithstanding this carefully crafted priority sequence, Section 91.7(d)(3) of the Interim Rule provides for public solicitation of bids after McKinney Act screening, and authorizes the Defense Department to convey the property regardless of an expression of interest by the community during that one-year period.¹⁴

The effect of the Interim Rule is to give high bidders as a class priority over communities and the homeless during the one-year period. Having made an exception to the normally overriding requirements of the McKinney Act specifically and expressly for communities, Congress could not have intended for the Defense Department to sell base property to high bidders without equally specific authorization under the Act. The Interim Rule, therefore, upsets Congress' careful balance of the potentially competing interests of the homeless and the community, and is simply inconsistent with the Act's mandate that a base's property "be available *only* for the purpose of permitting a redevelopment authority to express in writing an interest . . . or to use such buildings and property."

d. The Act's Other Provisions Contemplate that Communities Have Priority.

A review of the Act's other provisions further reinforces the conclusion that the Interim Rule's direct sale procedure is inconsistent with the overall statutory scheme.

- **Section 2902** requires the Defense Department, within 6 months' of the Act's enactment, to consult with the local redevelopment authority in conducting an inventory of personal property, and prohibits transfer or disposal of personal property identified in the redevelopment plan as essential. Congress could not have intended to permit the Defense Department to sell

¹² Section 2905 of the Act provides that during the one-year period following the screening process, "[b]uildings and property shall be available *only* for the purpose of permitting *a redevelopment authority* to express in writing an interest in the use of such buildings and property, or to use such buildings and property." The Act expressly provides that during that period, buildings and property "shall not be available for use to assist the homeless under Section 501 of such Act while so available for a redevelopment authority." Only after there is no expression of interest by a redevelopment authority can such property "be treated as property available for use to assist the homeless."

¹³ BENS has no objection, of course, to the McKinney Act procedures giving homeless providers priority consideration.

¹⁴ The community is given only the right to request "reconsideration" of the decision, which reconsideration is not constrained by any standards enunciated in the Interim Rule.

base property to bidders outside of the redevelopment plan, while giving communities the right to keep the base's personal property.

- **Section 2909** states that "[i]t is the sense of the Congress that the Secretary" provide surplus military property to the community. Disposition of such property by direct sale outside the redevelopment plan would be inconsistent with congressional intent.
- **Section 2912** provides for preference to be given to local and small businesses in contracting for base closure and cleanup activities. Thus, in the specific instance in which the Defense Department has discretion to enter into arrangements outside of a redevelopment plan (contracts for closure services), Congress limited that discretion by providing for preference to local and small businesses. Congress did not feel it necessary to provide for similar preferences in any direct sales the Defense Department might undertake, because Congress contemplated that such property would be disposed of through the local redevelopment plan, which would naturally cover such concerns.
- **Section 2915** establishes functions for the transition coordinator that plainly contemplate that the community's redevelopment plan will serve as the blueprint for base reuse. Among other things, the transition coordinator is to assist the Secretary in: (1) "designating real property ... that has the potential for rapid and beneficial reuse or redevelopment *in accordance with the redevelopment plan*" [Section 2915(c)(2)]; (2) "developing [closure] plans *that take into account the goals set forth in the redevelopment plan*" [Section 2915(c)(4)]; and (3) "developing plans for ensuring that ... the Department of defense carries out any [post-closure] activities ... in a manner that *takes into account, and supports, the redevelopment plan*" [Section 2915(c)(5)].

4. The Interim Rule Is Internally Inconsistent.

Perhaps in recognition of the shift away from community-centered property disposal, the Interim Rule is framed not as a straightforward implementation of congressional directives, but as "interpretive guidance" of changes "generated by the Act," as well as the establishment of "policy and procedure" under the President's Plan. Regardless of how it is framed, the Interim Rule is at odds with the central component of both the Act and the President's Plan -- providing federal assistance *to communities in their* efforts to reuse the base.

This inconsistency is apparent in the Interim Rule itself. The "Supplementary Information" section, for example, points out that "[i]n the past, the traditional property disposal methods focused on *maximizing proceeds* from the sale of real and personal property with little regard for enhancing the prospects for economic recovery in the community," and describes President Clinton's plan as making a "sharp departure from the past." 59 Fed. Reg. 16123. Section 90.4(a) seeks to implement this "sharp departure" by declaring that the new policy is to "help communities impacted by base closures achieve rapid economic recovery ... in ways based ... on locally developed reuse plans." In addition, Section 91.7(c) acknowledges that "[t]he early formation of a redevelopment authority is critical to the successful reuse of the base." The primary task of a redevelopment authority is to prepare "a comprehensive redevelopment plan." That this plan is to

serve as the blueprint for base redevelopment is evidenced by Section 91.7(c)'s direction that it will be used as the proposed action under NEPA.

Section 91.7(d), however, establishes a process that is at odds with these fundamentals. The process appears to be designed precisely to "maximize proceeds" to the federal government, and therefore is not a sharp departure from past practice.¹⁵ Moreover, potential buyers are "encouraged," *but not required*, to work with redevelopment authorities, so there is no guarantee that such buyers will comply with "locally developed reuse plans." If such plans are indeed critical to successful reuse, allowing for property disposal to buyers that fall outside of such plans can only hamper a community's efforts to recover from base closure.

OTHER CHANGES TO THE INTERIM RULE

1. Definition of "Local Redevelopment Authority" Should Be Further Specified.

There has been at least one instance of conflicting communities desiring recognition as the redevelopment authority for a closed installation. Section 90.3(e) should be further specified to provide that, in the case of conflicting claims for recognition as redevelopment authority, no such authority will be recognized by the Defense Department until disagreements have been resolved by the local communities.

2. Personal Property To Be Transferred Should Be As Identified in the Reuse Plan.

Section 91.7(h)(3) might be interpreted to be in conflict with Section 2902 of the Act. Section 91.7(h)(3) appears to give the base commander discretion in determining the items of personal property that would "enhanc[e] the reuse of the real property needed to support the redevelopment plan." Section 2902 of the Act, however, does not give the base commander such discretion. Rather, it leaves the determination of what is "essential" to base redevelopment to the reuse plan. Specifically, it provides that no personal property may be transferred or disposed of "if such items are identified in the redevelopment plan of the installation as items essential to the reuse or redevelopment of the installation."

BENS supports military efforts to reuse personal property for military or other federal uses where such reuse would be efficient and cost-effective. However, the Interim Rule must be modified to more closely follow the requirements of Section 2905. Therefore, BENS recommends that the local redevelopment authority be required (1) to expressly identify "essential" property, and (2) to demonstrate why such property is essential and cannot be obtained from other sources at the same cost to the community. This should clarify whether the identified

¹⁵ The addition of a community right to request reconsideration is certainly not enough to establish a sharp departure from the past. In any event, to the extent that the Defense Department was disposing of property "with little regard for enhancing the prospects for economic recovery in the community," as stated in the Supplementary Information, it was not in compliance with Section 2905(b)(2)(E) of the 1990 Act.

property is in fact essential to base reuse. The base commander would, in any event, be able to address the military's concerns by applying an appropriate exception from the list set forth in Section 91.7(h)(5).

3. Maintenance and Repair May Require "Construction, Alteration or Demolition."

Section 91.7(i)(3)(ii) provides that the minimum level of maintenance and repair shall not "Require any improvements to the property to include construction, alteration, or demolition, except that required by environmental restoration." The Interim Rule should be amended to clarify that alteration or demolition of a building, facility or structure or, construction of a new structure, may be undertaken to ensure the health and safety of adjacent landowners and residents. Section 91.7(i)(3)(ii) should be amended to read: "Require any improvements to the property to include construction, alteration, or demolition, except that required by environmental restoration and to ensure to the public health and safety."

4. Exemptions Shall Not Apply To Leased Base Closure Property.

Base property has historically enjoyed exemption from certain Federal, state and local laws of general applicability. These exemptions were instituted to assure that federal agencies, states and localities were without authority to impose barriers on military readiness. In particular, military base property has been free from the broad array of rules governing land use and the design, construction, renovation or repair of buildings, facilities and structures. Over the course of the next decade, the military departments will offer for lease large parcels of real property located in closing or realigning bases. In some instances, occupation and use of the leased property will require significant alteration of and existing facility or construction of a facility to accommodate a new use of the leased property.

In the absence of language which clarifies the obligation of lessees to comply with such law, unnecessary misunderstandings may arise upon final transfer of the property. BENS recommends that the Defense Department require that any activity undertaken on real property leased as part of a base closure or realignment satisfy (1) all federal and state laws governing use, design, construction, renovation and repair of buildings, facilities and structures and (2) all laws of the locality which will ultimately take jurisdiction of the property as they relate to use design, construction, renovation and repair of buildings, facilities and structures.

BASE CLOSURE
AND REUSE:
24 CASE STUDIES

By Keith Cunningham

A Report of the BENS Defense Transitions Project

APRIL 1993

Business Executives for National Security
1615 L Street, N.W.
Suite 330
Washington, D.C. 20036
(202) 206-2105

Special
Report

BENS

Preface

Business Executives for National Security (BENS) has worked toward the closure of unneeded military bases since its foundation in 1982. We are proud to have helped develop, promote, and implement the base closure and realignment commission concept. Now, BENS is focusing its efforts on assisting those communities that have been, or will be, affected by the loss of a local military facility.

The loss of a neighboring military base will initially appear to be economically devastating to a community. After all, the prospect of replacing thousands of well paying jobs may appear to be almost impossible to communities already struggling through difficult economic times. But are those fears based upon reality? Do communities face imminent disaster if the local base shuts down?

One year ago, BENS set out to discover the answer. BENS conducted a year-long comprehensive study of those communities affected by the 1991 round of closures in order to document their activities, verify the strategies for recovery, gauge their successes, and analyze their problems. Our findings are very encouraging. Successful redevelopment of bases is more difficult than in past decades, but by following the BENS "Ten Commandments of Base Reuse" communities can recover.

Unfortunately, BENS also found that redevelopment takes too long. People who lose their jobs this year can not afford to wait five years for redevelopment. Many of these delays, caused by government red tape and regulations, are not only unnecessary but also avoidable. Our suggestions for creating a "One-Stop-Shop" at the Pentagon and eliminating specific legislative conflicts can shorten the timeline for replacing the jobs on former military bases.

BENS would like to thank Office of Economic Adjustment (OEA) and the Base Realignment and Closing Commission (BRAC) for their advice and invaluable assistance. But most especially, we would like to thank all of the communities that participated in the study. Please look for future BENS updates of this study as the communities' efforts to redevelop closed military bases continue to mature.

Tyrus W. Cobb
President

Summary and Recommendations

Why Close Military Bases?

The end of the Cold War, a new administration, and a staggering budget deficit have combined to force dramatic changes upon America's military. Consider these force level indicators:

Indicator	1990	1997 (proj.)	% cut
Army active divisions	18	10	-45%
Navy Surface ships	545	340	-37%
Air Force fighter wings	18	11	-39%

So far, base closure has not kept pace with these reductions in personnel and equipment. Unless the base closure process continues, Department of Defense (DoD) will only have reduced its base infrastructure by 10 percent. Without additional closures, America could create an overpriced "hollow force."

Local Reaction

The reaction of neighboring communities to base closure is always negative. In California, a political coalition is attempting to make economic impact become a more important factor in the process of deciding on base closures. Citizens and politicians in and around Portsmouth, New Hampshire, have formed the nonprofit organization SoS (Save our Shipyard) to fight for their base. In South Carolina, politicians are threatening lawsuits if the Charleston Naval Shipyard closes.

Of the 31 base closures recommended by DoD in 1991, 29 were formally opposed by the local communities. The opposition was far from mere formality: four of those bases—Fort McClellan, Naval Training Center Orlando, Whidbey Island Naval Air Station, and Moody Air Force Base—were removed from the list after further review. These communities built a successful case for their base using the criteria established by the Base Closure and Realignment Commission (BRAC) and presented their findings before the Commission. The least successful challenges involved suing DoD and pressuring local politicians.

Eventually most communities accept closure and begin developing plans to replace lost jobs and business. Some communities do very well and others struggle.

Lessons Learned for Communities: the Ten Commandments

Based on the experiences of communities that have already dealt with base closures, BENS has developed a ten-step process that, if followed, will give other communities the best chance at successful challenge or redevelopment.

1. **Defend within the system.** People who depend on a military base are frightened and upset when their base makes the "hit list." The community will unite to protect the base, but there is a right and a wrong way to challenge a base closure. The successful communities, like Anniston, Alabama, were able to retain their base by building a case in public hearings before the Base Closure and Realignment Commission. Other communities that continue to fight outside the system, like Philadelphia, only delay redevelopment.
2. **Start reuse planning the moment the closure becomes final.** Unless Congress passes a resolution blocking the entire list, the closures become law. At that point, continuing to challenge the closure is pointless and wasteful. For example, the local community vigorously opposed the closure of neighboring Fort Ord, California, but once closure was inevitable, it turned its enthusiasm and resources toward reuse. As a result, Fort Ord has already attracted interest as a California State University branch campus which could eventually support 20,000 students and more than 3,000 jobs. Many communities, like those surrounding Moffett Field NAS in California, begin reuse planning even earlier.
3. **Find regional consensus.** Turf battles are a common obstacle to quick, effective reuse. Communities that move quickly to involve all of the affected groups at the local, regional, and state level in planning have a better chance of gaining support for their plans. For instance, by working together, the three neighboring communities surrounding Wurtsmith AFB in Michigan quickly obtained state and federal funds for reuse planning.
4. **Empower a local authority.** Once consensus is reached, the surrounding communities should establish a set of achievable criteria by which successful redevelopment is defined. Such lists should weigh issues such as number and quality of jobs, speed of recovery, type of industry, and quality of life. After the criteria is established, successful efforts, like the one redeveloping England AFB in Louisiana, empower a local authority to implement the criteria.
5. **Anticipate the unexpected.** All communities reported that their efforts were delayed by unexpected problems and expenses. For instance, the Rickenbacker Port Authority did not anticipate the costs associated with bringing Rickenbacker Air Guard Base in

Ohio up to civilian airport standards. The result was a one-year delay in planning.

6. **Plan for the whole base.** Many communities focused on one primary reuse at the expense of other job-producing uses on the excess land. Austin, Texas, avoided this problem by assigning a Citizen's Task Force to develop plans exclusively for the 900 acres not used by the new municipal airport.
7. **Develop both long-term and short-term strategies.** To start replacing jobs as soon as possible, successful communities develop short-term strategies that are compatible with a long-term vision. If they do not, problems may occur down the road. In Myrtle Beach, South Carolina, for example, short-term industrial development could preclude the long-term development of a two-runway airport.
8. **Develop achievable, not necessarily obvious, redevelopment plans.** Communities around a closing air base often focus first on trying to convert it into a civilian airport, but that may not always be the best use of the facility. A realistic assessment of local demand and the cost of complying with civilian safety regulations can help communities avoid costly mistakes. For example, the Wurtsmith Economic Adjustment Commission, after conducting a regional assessment, discovered that another civilian airport would not be needed in northern Michigan. So instead it is planning to develop a retirement community on the base.
9. **Learn from the experiences of others.** Two full rounds of base closure have occurred since 1988. By networking with the communities around bases closed in previous rounds, communities can learn successful strategies and avoid common mistakes without rivalries interfering. The Redevelopment Authority in the community near Grissom AFB in Indiana, for example, has been particularly successful in this kind of networking and has already volunteered to mentor future base closure communities.
10. **Lobby for assistance, not opposition.** State and national politicians want to help communities affected by base closure. But, too often, their approach is to oppose closure and try to use their influence to save constituent jobs. The nonpolitical nature of the base closure process frustrates these efforts. Communities will usually do better by calling for redevelopment assistance, not opposition to closure.

Recommendations for Congress and DoD

Communities can give themselves the best chance of replacing lost jobs and business by following these ten steps, but Congress and DoD also have a role. By removing obstacles, Congress and DoD can improve community

redevelopment efforts. The following are some preliminary recommendations for improving the process:

- **Streamline the base screening process.** Base screening is the process used to determine who will take over a closed base. Although federal decision-making is officially over in a timely manner, decisions regarding federal facilities, such as reserve enclaves and defense finance centers, can drag on for years. Shortening the process would allow communities to start planning earlier.
- **Create a community reuse "one-stop shop."** The Pentagon's Office of Economic Adjustment (OEA) works effectively with base closure communities to create redevelopment plans, but it does not help them comply with the regulations of the many other federal offices and agencies involved. Dealing with endless red tape through several layers of federal agencies has been the most common source of frustration for communities trying to redevelop closed bases. Congress could alleviate this problem by enacting legislation that would expand OEA's mission and services to include all aspects of base closure and redevelopment. Specifically, OEA project managers would be directed to approach other offices in DoD and other federal agencies on behalf of the bases they represent to gather information, assemble documentation, and provide technical assistance. In effect, they would become "case workers" on behalf of distressed communities.
- **Eliminate legislative conflicts.** In early October 1992, Congress passed two laws that differed regarding liability for environmental contamination on closing bases: the 1993 Defense Appropriations Act and the 1993 Defense Authorization Act. These differences have stalled military land transfers, jeopardizing community redevelopment unnecessarily. Congress should put base reuse back on track by striking all language regarding DoD liability from the Defense Appropriations Act.
- **Maintain environmental clean-up as a top priority.** Congress should not allow budget pressures to delay the clean-up of environmental contamination on all military facilities.
- **Streamline the interim lease process.** Interim leases allow private industry to start redeveloping a base before the actual closure date. They provide an important transition to a civilian economy. At present, the lease process is too bureaucratic to be effective, and lease applications typically take more than a year to process.

Introduction

The 1988 and 1990 Base Closure Acts set up a new procedure for closing military bases, based on the findings of an independent commission, the Base Closure and Realignment Commission (BRAC). (*For a description of its process, see appendix A.*) Two rounds have been completed, and the third round began on March 12, 1993, when Secretary of Defense Les Aspin recommended the closure of 31 major military bases. That announcement spurred interest in the results of previous base closure rounds. Does base closure cause an economic disaster for local economies? Or can communities replace the lost jobs and save their economies?

In a study of 97 bases that closed in the 1960s and 1970s, the Department of Defense (DoD) proved that communities can recover from base closure and actually create more civilian jobs than they lost. However, much has changed since the 1970s. To determine if communities can still find successful ways to recover from base closure, BENS conducted a study of 24 military bases that were scheduled for closure or major realignment in the 1991 round:

- | | |
|---|--|
| ♦ Fort Benjamin Harrison,
Indiana | ♦ Lowry Air Force Base,
Colorado |
| ♦ Bergstrom Air Force Base,
Texas | ♦ MacDill Air Force Base,
Florida (realignment) |
| ♦ Carswell Air Force Base,
Texas | ♦ Moffett Field Naval Air Station,
California |
| ♦ Castle Air Force Base,
California | ♦ Myrtle Beach Air Force Base,
South Carolina |
| ♦ Fort Chaffee,
Arkansas(realignment) | ♦ Fort Ord,
California |
| ♦ Chase Field Naval Air Station,
Texas | ♦ Philadelphia Naval Station and
Shipyard, Pennsylvania |
| ♦ Fort Devens,
Massachusetts | ♦ Puget Sound Naval Station,
Washington |
| ♦ Eaker Air Force Base,
Arkansas | ♦ Richards-Gebaur Air Reserve Station,
Missouri |
| ♦ England Air Force Base,
Louisiana | ♦ Rickenbacker Air Guard Base,
Ohio |
| ♦ Grissom Air Force Base,
Indiana | ♦ Sacramento Army Depot,
California |
| ♦ Long Beach Naval Station,
California | ♦ Williams Air Force Base,
Arizona |
| ♦ Loring Air Force Base,
Maine | ♦ Wurtsmith Air Force Base,
Michigan |

This report presents the results of that study. It tracks events from the date the closures were announced in April 1991, to April 1993.

The BENS study supports DoD's earlier finding that communities can recover and flourish. However, BENS also found that it will be more difficult due to changes in the economy, levels of government involvement, and regulations. Although many governmental regulations protect and support communities, unintended consequences can unnecessarily interrupt redevelopment. Given these difficulties, communities must strive to avoid the mistakes made by communities involved in the 1988 and 1991 rounds.

COMMUNITY REACTIONS

Although each base has a different story, the base closure process does follow a general pattern. When the list first becomes public, almost every community initially opposes the closure of its neighboring military base. Eventually, most communities accept closure and begin developing plans to replace the lost jobs and business. Finally, all communities experience a mixed bag of successes and problems in their adjustment to the closures.

Why Close Our Base?

When DoD compiled its list for candidates for closure in 1991, it applied a variety of criteria. The three most significant reasons for closure—cited for 44 percent of the bases studied—were land/air constraints, inadequate or inferior facilities, or poor cost efficiency. Other significant reasons for closure included excess capacity (41 percent) and poor location (25 percent).

Typically, bases needed to score poorly in several categories to be recommended for closure. Carswell AFB (TX), for instance, suffered from poor location for operation of its bombers and tankers, encroachment from neighboring Fort Worth, and low closure costs. As a result, Carswell will close in September 1993.

Challenging Closure

Most communities near bases selected for closure try to prevent the closure at first. The BRAC process facilitates voicing community arguments and grievances through a series of public hearings and site visits. These hearings are far from mere formality: BRAC removed four bases from DoD's initial 1991 list.

All of the communities in this study except Seattle (Puget Sound Naval Station) made such appeals to BRAC. Typically, they criticized DoD for inaccurate categorization, flawed analysis, and undervalued features. For example, the communities neighboring Myrtle Beach AFB (SC) and Williams AFB (AZ) argued that their excellent weather conditions were not considered. Another common strategy—and one still being pushed by communities in California and South Carolina—was to stress the economic impact of the closure on local communities. But this strategy almost always fails because economic impact ranks very low in BRAC's closure criteria.

Several communities made more unusual arguments. The communities around Grissom AFB, for example, argued that the base's location in central Indiana made it less vulnerable to surprise attack than coastal bases. In another unique defense, Indianapolis pointed to the negative effect the closure of Fort Benjamin Harrison would have on minority and handicapped employees. BRAC noted these concerns but still recommended closure of both facilities in its final report.

Making a strong economic and intellectual case for a base's military value is the best way to preserve a military base slated for closure. In the 1991 round, the communities around Moody AFB (GA), Fort McClellan (AL), and Whidbey Island Naval Air Station (WA) were all able to prevent the closure of these bases by proving their military worth. The only community that avoided a closure without proving military worth was Orlando, which demonstrated that closing either the San Diego or Great Lakes Naval Training Center would be cheaper than closing the one at Orlando.

REDEVELOPING CLOSED MILITARY BASES

Once the decision to close a base becomes final, successful communities normally stop fighting and turn their energy toward base reuse. Since closing a base takes years, communities have sufficient time to reach consensus and develop a plan before all the jobs disappear.

Most of the communities studied concentrated on one of three reuse options: maintaining federal ownership, developing a civilian airport, or attracting educational facilities. Other, less common reuses include developing the base into a park (Puget Sound Naval Station, WA), expanding a retirement community onto base property (Wurtsmith AFB, MI), and attracting small manufacturers (England AFB, LA). Unfortunately, other communities, such as Philadelphia (PA) and Long Beach (CA), have not developed any public plan for redeveloping their Naval facilities.

The following table shows the various categories of redevelopment plans and how many of the 24 communities studied pursued them as either primary or secondary objectives.

Redevelopment Category	Primary Use	Secondary Uses
Federal Ownership/(DOD)	7/3	9/8
Airport	6	5
Educational Facility	3	5
No Public Plan	2	3
Industrial Development	2	9
Retirement Community	1	3
Parks and Recreation	1	5
Housing	1	5
Aviation Maintenance	1	4

Federal Ownership

The most common redevelopment strategy, pursued as a primary reuse by 24 percent of the communities studied, involved continued federal ownership. These communities sought to attract other federal agencies that would establish operations at the base. This might seem to be an excellent option for a closed base, but there can be dangerous consequences. Few communities can successfully lure a federal facility. Moreover, the prospect of continuing federal budget cuts makes the long-term viability of this option fragile.

Only the community around Moffett Field Naval Air Station (CA) has successfully secured a federal facility for its base. In January 1993, NASA finalized plans to retain ownership of the entire base for the Ames Research Center that was already located on the base. As a result, the community expects to avoid job loss in the short run.

Other communities pursuing federal facilities face more tenuous situations. For instance, the Fort Benjamin Harrison Reuse Committee (IN) is counting on receiving one of six Defense Finance and Accounting Centers. The committee has not even begun considering other options for the site should this effort fail. Also, the city of Philadelphia has attempted to maintain federal ownership by suing the government to keep its Naval shipyard open. That court challenge has hindered efforts to create civilian redevelopment plans for the yard. *(For an analysis of Philadelphia's legal challenge, see appendix B.)*

Civilian Airport

Developing a military air base into a civilian airport is the second most common reuse strategy. Of the 16 bases with active military airfields, community reuse plans call for 10 to be developed as civilian airports (though in many cases this is not the primary reuse envisioned), three to be developed as federally owned and operated airports, and only three not to be used as airfields at all.

Conversion of an air base into a civilian airport is a popular idea for several reasons. It would use existing infrastructure, have the potential to create a large number of high-quality jobs, and appear on the surface to be a simple and inexpensive option. However, a community will only realize these benefits if the airport is successful. As many of the communities studied have already discovered, developing an airport is neither cheap nor easy.

Before deciding to pursue this option, communities should carefully consider other options, examine the costs of converting to civilian standards, and conduct a market analysis to determine community need. Communities that skip these steps risk costly delays, price overruns, and serious problems attracting business. The Rickenbacker Port Authority (OH), for instance, had its plans delayed for a year due to unexpected costs and safety regulations required for converting Rickenbacker Air Guard Base into a civilian airport.

The analysis may show that an airport is not a viable option, allowing the community to develop more realistic goals. Oscoda (MI), for instance, following

its market analysis, decided to develop Wurtsmith AFB into a retirement community instead of an airport.

Educational Facilities

Three of the communities examined plan to develop educational facilities on the former bases. Military bases tend to have the large areas of land necessary for a major campus, and on-base housing can easily be converted into dormitories and staff housing. Educational facilities also produce high-skill and high-paying jobs.

Many military training facilities were developed for educational use and thus lend themselves to be converted into civilian educational centers. For instance, because Lowry AFB (CO) was a training base, the community is considering converting it into a college or university.

Bases in or near urban areas also make good candidates for educational facilities because of the large potential market. One urban base—Williams AFB (AZ)—has successfully attracted interest from a major university.

OBSTACLES TO REDEVELOPMENT

Government bureaucracy and infighting present the largest impediments to quick, successful job replacement on closed military bases. Among the most common stumbling blocks are environmental issues, the federal decision-making process, and jurisdictional battles.

Environmental Issues

All of the bases studied suffer from some degree of environmental contamination. Indeed, nine of them are included on the EPA's National Priority List (NPL)—the most serious and dangerous classification in the Superfund ranking system.

Regulations protecting the public from dangerous contaminants also require all clean-up to be completed before DoD can transfer ownership of the land. That means communities and businesses seeking to redevelop contaminated bases must operate under long-term leases (50-100 years) until all clean-up is completed. Parcelization—the process by which clean land is separated from contaminated land and leased for development—was made legal in 1992.

But leasing raises the problem of who is liable for contamination on the leased land. In 1992, Congress attempted to address this problem. The 1993 Defense Authorization Bill made DoD responsible for all contamination it caused, but the 1993 Defense Appropriations Bill took it one step further by making DoD responsible for all contamination on DoD property. In effect, the law made DoD responsible for contamination caused by any business or community that leased and on a closed base. *(For a more detailed description of environmental legislation affecting base closure, see appendix C.)*

DoD responded by refusing to grant leases under these circumstances. To get around this obstacle, communities like those redeveloping Chase Field NAS (TX) and England AFB (LA) have been required to sign waivers freeing DoD from liability for future contamination. Unfortunately, by waiving DoD's liability, communities become responsible for indemnifying the businesses.

Federal Decision-making

Once a base closure becomes final, other federal agencies get their first opportunity to assume ownership of the site. That decision making process is long and unfair and seriously impedes successful reuse.

Over half of the communities studied face significant problems with the decision-making process. Because communities are eager to attract federal tenants, they often postpone other reuse planning until the decision-making process is completed. Unfortunately, decision-making often takes years. For example, decision-making of the bases selected for closure in the 1991 round has been underway for more than two years, and only one decision—for Moffett Field NAS (CA)—has been finalized.

The decision-making process for the Defense Finance Accounting Service Centers has been particularly disruptive. In March of 1991, DoD began examining sites for consolidating existing centers into only six locations. Upon the announcement, the Fort Benjamin Harrison Reuse Committee (IN) suspended all reuse planning and entered a bidding war, along with 130 other communities, for one of the 4,000-job centers. Late in 1992, more than a year and half later, Fort Benjamin Harrison made the second list of 20 possible locations, but three days before the winners were to be announced, Secretary of Defense Les Aspin suspended the competition indefinitely and embargoed the list of winners. As a result, Fort Benjamin Harrison's reuse planning effort remains on hold.

Local Jurisdictional Battles

Military bases rarely reside in just one government jurisdiction. They often fall within the jurisdictions of several city, county, and even state governments. Unless communities start working together immediately, these ambiguities can lead to damaging turf battles among the interested governments. Such disputes delay planning and can cause problems in applying for federal aid.

Many of the communities studied were aware of the jurisdictional problems of previous bases and moved quickly to reach regional and state consensus. By working pro-actively and creating regional development authorities, 15 of the bases in the study avoided the kinds of jurisdictional battles that continue to paralyze the reuse efforts for some bases, such as George AFB (CA), that were on BRAC's 1988 closure list.

Federal Bureaucracy

Endless red tape and the need to wade through several layers of federal agencies represent the most common source of frustration for communities. Local officials in all 24 of the base areas examined cited problems and delays caused by bureaucratic red tape as a serious problem.

The DoD Office of Economic Adjustment (OEA) (*see appendix D*) effectively works with communities to create redevelopment plans for bases, but its limited charter does not call for it to help communities comply with other federal regulations. For instance, the Beeville Redevelopment Council (TX) experienced significant delays in receiving interim leases and environmental data regarding Chase Field Naval Air Station. Government bureaucracy also crippled the efforts of the England Air Force Base Redevelopment Authority (LA). DoD acted on only one of its 17 interim lease applications dating as far back as June 16, 1992.

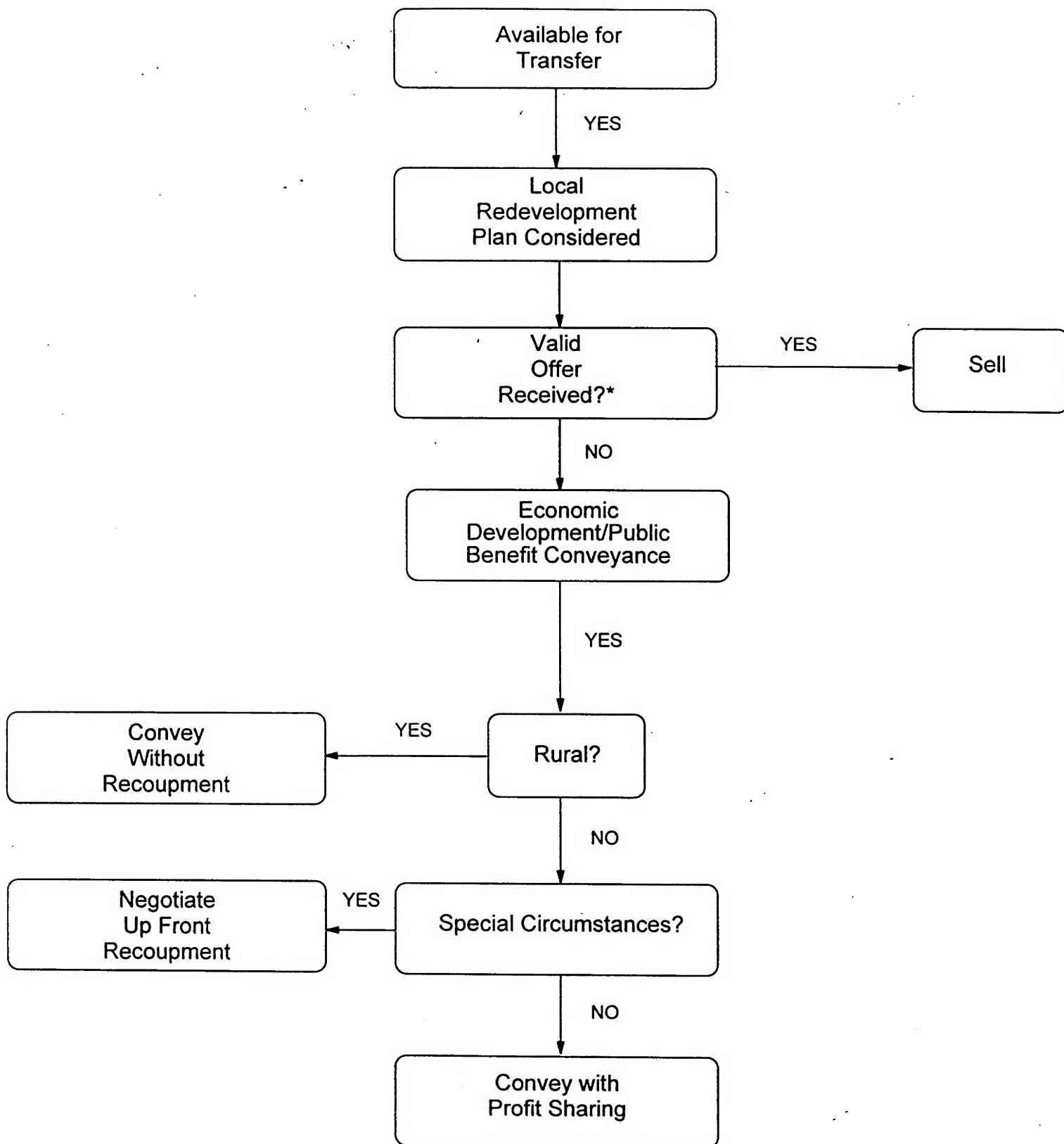
McKinney Housing for the Homeless Act

The McKinney Act provides a preferential screening period for the nonprofit groups interested in providing homeless shelters on excess federal property. Once land has been declared excess by the federal government, homeless assistance groups have the first opportunity to receive parcels of the land, beginning 180 days before the facility closes, through proposals in the Federal Register.

Since homeless assistance nonprofit groups can pre-empt the community planning process, DoD and development officials have raised the act as a potential obstacle to redevelopment. However, none of the 24 bases studied reported any such disruptions. For instance, nonprofits in Massachusetts have worked within the Fort Devens community planning process to create a plan that benefits all interests.

As more bases, particularly those in urban areas, near the 180-day threshold, more McKinney Act proposals could surface. If homeless assistance providers refuse to work within the planning process, Congress may consider limiting or discontinuing their priority screening privileges.

To be inserted into "Process Flowchart for Base Closure
Community Assistance" after McKinney Screening



*i.e., consistent with local reuse plan and approved by local redevelopment authority.

Helen Foxebeck

STATE OF

RHODE ISLAND

PORT AUTHORITY AND ECONOMIC DEVELOPMENT CORPORATION



July 1, 1994

*1065
7/6*

Office of the Assistant Secretary
of Defense for Economic Security
Room 3D854, The Pentagon
Washington, D.C. 20301

Re: The Rhode Island Port Authority and Economic Development Corporation's
Comments to the Department of Defense Interim Final Rule ("IFR") and Proposed
Rule ("PR") (the "Comments")

Dear Sir/Madam:

Attached are our comments to the "IFR" required by Section 2903 of the National Defense Authorization Act for Fiscal Year 1994 and the PR required by Section 2908 of the National Defense Authorization Act for Fiscal Year 1994.

The attached point-by-point comments address all the concerns. Please review their content and if you have any questions, do not hesitate to contact me.

Very truly yours,

George A. Prete, (gh)

George A. Prete
Associate Director
Property Management

GAP/gh
Attachments

cc: Governor Bruce G. Sundlun
Senator Claiborne deB Pell
Senator John H. Chafee
Congressman Ronald K. Machtley
Congressman John F. Reed
Paul L. Barrett, Executive Director
Raymond Fogarty

oasdes

Comments to Final Interim Rule and Proposed Rule

A. Port Authority Comments to Department of Defense Interim Final Rule

Listed below are our comments to various sections to the Interim Final Rule which provides guidance required by Section 2903 of the National Defense Authorization Act for fiscal year 1994 (Act) and provides interpretive guidance concerning other changes to the Base Realignment and Closure Process generated by Title XXIX.

1. § 91.7(a)(3) - The final sentence of this paragraph should be changed to reflect that the Assistant Secretary of Defense for Economic Security ("ASDES") must always approve the transfer of real property at closing and realigning bases between military departments or retention of real property at a closing base by a military department, except in those instances where such a transfer has already been approved by the Secretary of the military department concerned prior to April 1, 1994, which is the date that the military departments were required to complete the internal DOD real property screening of closing and realigning base property as set forth in § 91.7(a)(2). This will insure that the local authority will have some input and ability to cause the ASDES to block the retention of real property by any military department in those instances where such retention imperils the economic feasibility of the Local redevelopment Plan and economic development.

2. § 91.7(a)(9) - To the extent that any part of the closed facility is considered "withdrawn public domain lands" as is used in this paragraph, the local authority should have the ability to have input and influence the military department concerned and the Department of

Interior to not have such lands returned to the Department of the Interior to the extent that such return would impair the economic viability of the Local Redevelopment Plan.

3. **§ 91.7(b)-McKinney Act Screening** - The Interim Rules presume that the Secretary of Defense does not have any discretion to reject the McKinney Act proposals which are accepted by the Department of Health and Human Services and which impair the economic reuse of a facility as outlined in the Local Redevelopment Plan. Since the Department of Defense is primarily obligated to oversee the effective implementation of a Local Redevelopment Plan, it should have the ability to reject any Department of Health and Human Services proposal to the extent that it believes it impairs the objectives of such Local Redevelopment Plan. To this extent, the Interim Rules should also reflect the local authority's desire to be able to influence the DOD's determinations on this point.

4. **§ 91.7(c)-Local Redevelopment Plan** - The statement that the Local Redevelopment Plan will "generally" be used as the proposed action in conducting environmental analysis required by the NEPA should be replaced by the language that the Local Redevelopment Plan should be used "wherever possible" in order to carry out the President's intent that the Local Redevelopment Plan would be the preferred alternative in the EIS. Additionally, there should be an exemption from the requirement of identifying uses in addition to those already identified in an adopted Local Redevelopment Plan. This would avoid the situation of having years of work in creating the Local Redevelopment Plan be wasted due to any new requirements which could be interpreted as requiring the repetition of the process of adopting a new Local Redevelopment Plan, such as was the case with the previous McKinney Act Screenings.

5. § 91.7(d)-*Jobs-Centered Property Disposal* - As presently drafted, the Interim Final Rules under this section often would put the DOD in direct conflict with the local redevelopment authority. Pursuant to the Interim Final Rule itself, the procedures described in this sub-section "may not apply to those 1988 and 1991 closures which may be well along in the disposal process." The rule should explicitly exempt further action from those communities which have adopted a Local Redevelopment Plan.

It is necessary to establish a uniform definition of estimated fair market value. It is best to value such properties in an "as-is," "where-is" condition taking into account the surrounding properties and infrastructure of the particular facility. In such cases, properties which may be considered "high value" under another valuation method might not accurately reflect the real usable value to the locality. In any event, the local redevelopment authority has similar incentive to maximize the amount of money to be recouped from the sale of such Property as does the DOD. The current value method would also be consistent with the fair market value definition in the economic development conveyance section of the Interim Rule.

In support of our comments concerning a uniform definition for the term "estimated fair market value", Section 2903 of the Pryor Amendment appears to provide the DOD with ample discretion and authority to restructure this section of the Interim Final Rule as we suggested. The purposes behind the Pryor Amendment clearly are to promote the economic redevelopment of affected communities, and, as is stated above, it would be more prudent and advantageous to allow the local authority to be the prime marketer of commercial uses for such properties. At the very least, the Interim Final Rule should provide the military department concerned, or the DOD, the ability to have the discretion to work with local development authorities, when circumstances

warrant the application of the above described method of disposition of properties as opposed to the disposition process as presently stated in the Interim Final Rule.

6. **§91.7(e) - Economic Development Conveyances** - The discussion above concerning jobs-centered property disposals as well as the discussion below concerning the definition of estimated fair market value applies with equal force to this sub-section. This sub-section should be restructured to allow the local authority to fully implement its Redevelopment Plan. Once the environmental conditions of a facility are fully known, it would be imperative for the local agency to direct sales of properties in order to maximize economic development and job creation.

7. **§ 91.7(f) - Profit Sharing**

- **§ 91.7(f)(1)** - This sub-section should be redrafted to allow the Secretary of the military department discretion so that the best use and economic vitality of the community may be maximized. In many instances, the local community will undertake significant expensed to develop the infrastructure and marketing required to gain the benefit of the property. Too often, the military department will need the flexibility to excess the property without any future profit-sharing.

- **§ 91.7(f)(4)(iii)** - This provision should be dropped entirely. Not only is it ambiguous and confusing, thus leading to complications with respect to title and economic development, it is also inflammatory and not cognizant of the goals of the local development authorities in maximizing profits on the sale of properties.

- **§ 91.7(f)(4)(iv)(A)** - This sub-section should be revised to recognize that off-site capital improvements directly related to reuse of the surplus base property are an

allowable cost, even though such off-site capital costs are not recognized in 41 CFR 101-47.4908. Often, facilities are located far from any other developed urban area. To the extent that they lack adequate road access both on-site and off-site necessary to reasonably develop the facility and to create new jobs, these costs should be recognized as capital costs.

- § 91.7(f)(4)(iv)(B) - This sub-section should be redrafted to delete the reliance upon Federal Acquisition Regulations ("FAR") in terms of identifying allowable local redevelopment authority costs. Most communities do not have easy access to the FARs and they will be at a decided disadvantage in negotiating with the applicable military department which is used to dealing with the FARs. Therefore, this section should provide the specific examples of such local redevelopment authority costs such as state-local expenses of financing; on-site; and off-site infrastructure improvements related to the reuse of the site; demolition costs; design and engineering expenses; planning and marketing expenses - including brokerage fees; federal relocation costs, if any; costs for upgrading and relocating McKinney Act Housing on-site or off-site; direct capital interests of borrowing cost; and local facility care and custody deficits for maintaining the former base.

- § 91.7(f)(4)(v) - This sub-section should be redrafted to reflect that the DOD report required will be on the basis of an annual report for the entire facility and not a report on each individual sale or lease transaction as now implied in this Rule. The sales and leases which will take place in any particular year will be adequately reflected in the annual report as now required by the GSA reporting process and is in tune with the general idea that the facilities are often to be marketed as an entire package.

8. §91.7(h) - *Personal Property*

- §91.7(h)(1) - The exclusion in this sub-section with respect to equipment that the base does not own is too broad in the sense that with respect to Navy facilities this exception would apply to critical items located at the base but technically owned by other "Claimant Commands", such as old radar, ground support equipment and electronic equipment that are essential to the civilian reuse of a military air field.

- §91.7(h)(2) - This sub-section should be redrafted to remove the sentence which states that exempted categories of personal property listed in sub-section (h)(5) of this section shall not be subject to review by the community. Since such property shall have already been inventoried as personal property based upon cooperation between the base commander and the community, it will be critical to the community's long term economic planning to be able to have some influence as to which property would be removed from the base pursuant to this exception.

- §91.7(h)(5)(i) - This exception which would allow removal of personal property by any Major Command having jurisdiction over a particular installation or a Major Claimant having jurisdiction over a particular installation whenever it "is needed immediately and is indispensable to an organization under its jurisdiction and another installation for carrying out the organization's primary mission" would effectively provide a mechanism for any and all personal property to be easily removed from a facility, again without any community review before such removal.

9. **§ 91.7(i) - Minimum Level of Maintenance and Repair to Support Non-Military Purposes.**

- **§91.7(i)(2)** - This sub-section should be redrafted to require the military department to maintain the Base Closure Facilities for as long as the military department continues to own properties at the particular Facility, or until the community entered into an interim use lease for the property. As the sub-section is presently worded, it appears that DOD's maintenance responsibilities could end as early as one week after the date on which the Redevelopment Plan is submitted to the applicable military department (which in the case of the Davisville Facility has already occurred). Adequate maintenance must include a standard that assures no decrease in value of the property.

- **§ 91.7(i)(3)** - This sub-section should be redrafted to reflect that the amount of repair should at a minimum provide for adequate maintenance to prevent the present decay and breakdown of existing facilities and buildings. Present maintenance levels may be deficient to adequately remedy the effects of decay of certain buildings or other properties. This problem was graphically illustrated by the near disastrous effect of a decayed water main in a building under the maintenance and control of the Department of the Navy which caused a substantial water leakage resulting in a dangerously low water level at the Davisville Facility thus rendering the entire Facility vulnerable to the effects of any disaster, such as a fire, which would have been left unchecked due to such inadequate water pressure level.

10. **General Comments** - The Interim Final Rule should be drafted to provide one uniform definition of fair market value. Presently there are two different descriptions for fair market value in the Interim Final Rule: (1) a broad definition for a "readily marketable" property;

(2) and a "narrow proposed reuse" definition in the section on Economic Development Conveyances. Neither definition indicates that the surplus base property is actually being transferred in its "as-is", "where-is" condition, often without local zoning or adequate infrastructure being in place.

Specifically, fair market value of a particular piece of property should be based upon its "as-is," "where-is" condition based on current local zoning and proposed use of the property, adjusted by offsetting the estimated value of the infrastructure improvements to support the proposed use and the condition of surrounding properties, in a competitive and open market under all conditions requisite to a fair sale with the buyer and seller each acting prudently and knowledgeably, assuming the price is not affected by undue stimulus. The effect of the base closure on the market shall be taken into account in estimating fair market value including the restrictions that would be put on such property and value attached to that property based upon the Base Reuse Plan.

B. **Port Authority Comments**

Department of Defense Proposed Rule

Listed below are our comments to various sections of the Proposed Rule which provides guidance required by Section 2908 of the National Defense Authorization Act for fiscal year 1994 which provides authority for the Secretary of Defense to transfer real property and facilities available as a result of a base closure, to persons paying the cost of environmental restoration activities in the property.

1. §91.7(j)(1) - As presently drafted this sub-section allows the Department of Defense to transfer "a property" for the cost of clean-up to "persons" who agree to perform the environmental restoration on such property. The sub-section then states however that "if the estimated value of the 'base' exceeds the cost of clean-up, the buyer shall make up the difference." As an initial comment, "persons" should be clearly defined to include the Local Development Authority such as the Port Authority. Secondly, it is inconsistent to state that a "property" shall be transferred for the cost of clean-up of such property and then state that if the estimated value of the "base" exceeds the cost of clean-up the buyer shall make up the difference. Presumably the estimated value of the "base," if the "base" is defined to mean the entire Facility, would be higher than any individual piece of property irregardless of the cost of such clean-up. Therefore, this section should be redrafted so that if the estimated value of the "property" (not the "base") exceeds the cost of clean-up of such "property" the buyer shall make up the difference. In this respect the estimated value of a "property" should be the same definition of fair market value as indicated above with respect to the Interim Final Rule.

2. § 91.7(j)(2) and (3) - The local authority should have the ability to influence and object to the sale of any land in accordance with these sub-sections. This would insure that any potential sale would be in conformance with the Local Redevelopment Plan as well as allow the local agency to object to the sale to a person whom the local agency considers as not having adequate resources to fully remediate the environmental problems at the particular property in order to fully use such property in accordance with the Local Redevelopment Plan. In particular, the reuse of a certain parcel or property may require substantial restorations and construction thus exposing asbestos and lead paint and therefore increasing the cost of environmental remediation.

Therefore, the additional environmental remediation associated with any such contemplated reuse and construction needs to be calculated into the total cost of the environmental clean-up and restoration of the particular property when determining whether the particular entity purchasing such property has the resources to fully comply with such environmental restorations.

Moreover, there should be a new provision added to sub-section (3) which would provide that should the acquirer of such property fail to fully environmentally restore such property it would be the responsibility of the applicable military department to complete such environmental restoration. This would avoid the situation of the local agency incurring environmental restoration costs in order to clean up or complete any clean up begun by any now defunct acquiring entity.

3. **§91.7(j)(3)(v)(B)** - This sub-section indicates that before executing any agreement for the transfer of property, the Secretary of Defense must, among other things, conduct an environmental base line survey to determine whether there are any impediments to the ultimate transfer of the property. To the extent that an environmental base line survey has already been conducted, can such environmental base line survey be utilized to satisfy the condition of this particular sub-section, or would another environmental base line survey be required to be conducted to satisfy this requirement, thus leading to needless repetition and waste of resources as was the case with the repeated McKinney Act Screening Process.



The Port of Long Beach

P. O. BOX 570 • LONG BEACH, CA 90801-0570 • TELEPHONES: (310) 437-0041 • FAX: (310) 437-3231 • TELEX: 65-6452 PORTOBEACH LGB

June 29, 1994

1066
7/6

Office of the Assistant Secretary of Defense
for Economic Security
Room 3D854
The Pentagon
Washington, DC 20301

**SUBJECT: REVITALIZING BASE CLOSURE COMMUNITIES AND COMMUNITY
ASSISTANCE - INTERIM FINAL RULE**

The Port of Long Beach has reviewed the interim rule and finds that it is deficient in not addressing Section 2927 **Public Purpose Extensions** of the Defense Reauthorization Act of 1994. Under this section, the Secretary of Defense can assign property to the Secretary of Transportation for disposal for the development or operation of a port facility. A literal reading of your interim rule would lead one to believe that there is no possibility to utilize the public purpose extension for port use because the property would be sold to the highest bidder first. This clearly seems inconsistent with the intent of the Congress who recognize that most U.S. ports have limited opportunities for expansion. As vital links to international commerce, surplus lands made available through the base closure process near or within port districts should be made available for port use.

In the case of the Port of Long Beach, working with the Navy we have identified a parcel of surplus Navy land for transfer to the City for port use. The land is waterfront property within the Harbor District. The proposed re-use is consistent with the local re-use planning process and is not controversial with the community. However, we are being held up because there are no regulations yet released to implement Section 2927 which grants the land for port use. We request that you revise your interim rule to include these regulations.

Similarly, Section 91.7 **Procedures** in your interim rule recognizes that a competing request may be so meritorious and compelling so as to outweigh the needs of the homeless as required by McKinney Act screening. In the case of waterfront property located in a port district that is being surplused through the BRAC process, we think that a defacto finding should be made that water-dependent uses, i.e., port use, take precedence over non-water dependent uses, i.e., homeless. With limited areas to expand, ports often have to dredge and create landfill for port expansion often impacting valuable marine and coastal habitat.



Revitalizing Base Closure - Interim Final Rule

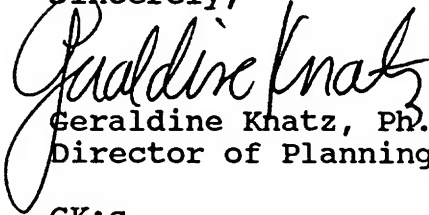
Page 2

June 29, 1994

Ports have no alternatives than to be sited on the waterfront whereas homeless facilities do not have to be sited on the waterfront. Section 91.7(8) should be expanded to address this issue and give clear guidance on how competing proposals for reuse are found to be "meritorious and compelling".

If you have any questions regarding our comments, please contact me at (310) 590-4154.

Sincerely,

A handwritten signature in cursive script that reads "Geraldine Knatz". The signature is written in dark ink and is positioned above the printed name and title.

Geraldine Knatz, Ph.D.
Director of Planning

GK:s

cc: S. R. Dillenbeck, Executive Director
P. E. Brown, Assistant Executive Director

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

1067 7/6

From: Twin Cities Army Ammunition Plant -- Community Cleanup & Re-Use Committee
(Activity/Location/Community/Installation/Group)

Page _____

Column _____

Paragraph _____

Recommended Changes: Expand application of rules and all provisions under the Pryor amendments to include Army Ammunition Plants that are closing, as well as other government-owned, contractor operated facilities.

The Office of Economic Adjustment has told us that it is not interpreting the new legislation/rules to apply to any facilities other than those closing under the Base Realignment and Closure process. That leaves out the Twin Cities Army Ammunition Plant and three other Army Ammunition Plants that are closing.

While we recognize that there are some problems and concerns with the newly proposed rules, they are a step forward from the long, laborious process of working through the General Services Administration, and they recognize the importance of working with communities to enhance cleanup and redevelopment opportunities.

These rules, which were designed to benefit communities impacted by closing military sites, should be applied to Army Ammunition Plants and other GOCO's.

Why:

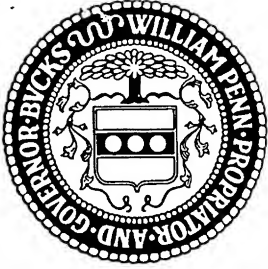
Army Ammunition Plants play much the same role in communities as do bases. They are enormous facilities (up to 25,000 acres in some cases). They pose the same challenges and opportunities for re-use as bases do. The Twin Cities Army Ammunition Plant is a 4-square-mile site with the worst soil and water contamination of any Superfund site in Minnesota. The Army has decided the plant has no future mobilization mission, and is preparing to excess the property. Buildings, equipment and utility infrastructure that could be useful in redevelopment has not been saved because there has been little interaction with the community for redevelopment purposes. Applying the new departmental rules to this facility and others like it would mandate that interaction with the community (and might have prevented the selling off of valuable equipment). It would ensure that all sites are being treated equally.

Name: Janet Groat, Minnesota Jobs with Peace

Address: 1929 So. Fifth St.
Minneapolis, MN 55454

Phone: 612-338-7955

(NOTE: LIMIT TO 1 COMMENT PER PAGE)



**BUCKS COUNTY
NAWC ECONOMIC ADJUSTMENT COMMITTEE**

The Almshouse-Neshaminy Manor Center, Doylestown, PA 18901

Georgia Masters

Coordinator

(215) 345-3406

Fax (215) 345-3886

BRAC
f

Robert S. Taylor, Esq., Chair
Kathleen Belsky, Bell of Pennsylvania
Cretel Bleich, Northampton Township
Joseph Butch, Warminster Township
Aron Davidson, Delaware Valley Science and Technology Association
Gerald Forest, Bucks County Industrial Development Corporation
Norman Kelly, Ivyland Borough
Charles Martin, Philadelphia Electric Company
Maureen McCullough, Commonwealth of Pennsylvania
Elaine Shreiber, Bucks County Board of Realtors
Joseph Stewart, Montgomery County, PA
George Yamall, Bucks County Bank

1068
7/6

June 29, 1994

Office of the Assistant Secretary
of Defense for Economic Security
Room 3D814, The Pentagon
Washington, DC 20301-3300

RE: Department of Defense Interim Final Rules
Entitled "Revitalizing Base Closure
Communities and Community Assistance"

Gentlemen:

I am providing these written comments to the Interim Final Rules published by the Department of Defense in the April 6, 1994 Federal Register, both in my individual capacity and as Chairman of the Bucks County NAWC Economic Adjustment Committee. The Committee is responsible to recommend reuse strategies to the local community surrounding the Naval Air Warfare Center (NAWC) in Warminster, Bucks County, Pennsylvania in response to the decision of the Department of the Navy to realign functions from NAWC to Patuxent, Maryland by September, 1996.

I will restrict my comments in this letter to the proposed "early sales" program.

The new property disposal process designed to create new jobs by attempting to take advantage of a strong existing market is contrary to existing real estate standards and imposes additional steps in the disposal process that are not only burdensome and restrictive to the military departments, but also will inevitably give rise to conflicts which may place the military departments in an adversarial posture with local reuse authorities.

While DoD presumes that early sales will automatically cause new jobs to be created, we believe that property sales without a local plan and zoning will delay local recovery. Such quick sales techniques will yield a fraction of the likely present value from competitive incremental sales through the communities, supported by local planning and zoning.

I am concerned that, if invited to submit "expressions of interest," the private sector will attempt to cherry-pick readily marketable parcels. This would undercut opportunities that our community would otherwise have to allocate a portion of the sales revenue from the more readily marketable properties to address urgent infrastructure and redevelopment needs in the community. If the community's reuse activities allow only for receipt of properties which are not readily marketable, then the practical ability of our reuse effort to successfully convert NAWC to civilian use will be restricted.

The early sales program will often lead to an adversarial relationship between the disposal agents for the military departments and the community. The adversarial relationship may arise when the military department proposes to sell parcels which the community reasonably expects to receive as an economic development transfer. Conflicts may also arise if, as presently contemplated, sales occur before our local NAWC reuse efforts have yielded a complete reuse plan or we are required to plan "around" the designated sale parcels.

In Warminster, the Economic Adjustment Committee is working closely with community leaders and laymen to plan and implement reuse alternatives for the Naval Air Warfare Center that are born of community consensus and grown with community-wide enthusiasm and incentive. The Committee has worked hard to develop consensus among at least a dozen municipalities and two county governments. We have succeeded in bringing many segments of a potentially fractious community together. However, many in the community maintain very deep and definite opinions regarding the ultimate reuse of the NAWC facility. In some cases those opinions will and do conflict with alternatives suggested by entities outside the community. This may only create resentment, denial, and resistance on the part of the community.

The new property disposal process established in the DoD rules has potential to create similar problems. While perhaps planned to be objective, implementation of this process could lead to uses inconsistent with a single community's desire, result in fractionalization of purpose for those municipalities presently working together, and result in strategies designed to hinder further action by the Department. Of course, we realize that such results will ultimately harm the community, not the Department. We hope this result, a realistic outcome of this proposed process, was not intended to further harm a community already experiencing the debilitating effects of defense realignment and conversion.

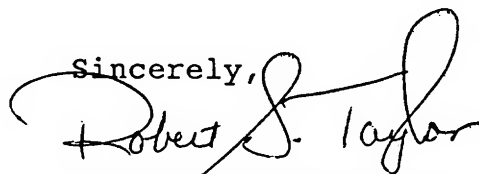
Lastly, expressions of interest, particularly those prepared before the community has completed its reuse plan, are not likely to be meaningful because they may not reflect an informed consideration of local issues, such as, (1) the likely character of surrounding uses, (2) the availability of infrastructure and other support services, (3) the compatibility of the intended use with the reuse plan, and (4) the likelihood that the land designated in the expression of will be deemed suitable for sale.

The Bucks County NAWC Economic Adjustment Committee is in the midst of conducting a reuse strategy that will be discussed by the community in the coming months, and will ultimately be submitted to the Department of Navy in early 1995. The new property disposal process will, if implemented, not only interfere with this reuse planning, but will seriously harm that effort by creating unpredictability. As an unpaid volunteer who has dedicated hundreds of hours to the reuse planning process, I take great exception to a rule that will by application undermine and possibly destroy the delicate planning process in which we are now engaged, and to which we have devoted tremendous time, energy, and effort.

We believe the military departments must be permitted to exercise discretion and work with our reuse Committee to assure property disposal occurs consistent with the community reuse planning. The intervention defined by the Pryor Amendment rules, however, are seen as largely negative and counter productive.

Thank you for your consideration of these comments, and for the opportunity to submit such remarks on behalf of the citizens and communities impacted by the NAWC realignment.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert S. Taylor". The signature is fluid and cursive, with a large, sweeping initial "R".

Robert S. Taylor, Esq.
Chairman

cc: Honorable Andrew L. Warren
Honorable Mark Schweiker
Honorable Sandy Miller
Honorable Arlen Specter
Honorable Harris Wofford
Honorable James Greenwood
Honorable Marjorie Margolis-Mezvinsky
Bucks County NAWC Economic Adjustment Committee
BCNAWCEAC Reuse Subcommittee
Sheila Bass
Secretary William Perry
Captain William McCracken

Secretary William Perry
Captain William McCracken
Joseph Cody - Transition Coordinator

Helin Forebeck



DEFENSE LOGISTICS AGENCY
HEADQUARTERS
CAMERON STATION
ALEXANDRIA, VIRGINIA 22304-6100



IN REPLY
REFER TO

CAAJ(BRAC)

1069 7/6

7 JUL 1994

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF DEFENSE
(ECONOMIC REINVESTMENT AND BRAC),
OASD(ES)/A

SUBJECT: Revitalizing Base Closure Communities and Community Assistance

Enclosed are the Defense Logistics Agency's comments on the interim final rule published in the Federal Register on 6 April 1994 under the title, "Revitalizing Base Closure Communities and Community Assistance." Our point of contact is Col Dennis L. Reynolds, CAAJ(BRAC), (703) 274-7146.

1 Encl


LAWRENCE P. FARRELL, JR.
Major General, USAF
Principal Deputy Director

OPTIONAL FORM 98 (7-90)

FAX TRANSMITTAL

of pages 3

To STEVE Klemman	From Col REYNOLDS
Dept./Agency	Phone 274-7146
Fax 695-1493	Fax 274-3966

NSN 7540-01-217-7388

5099-101

GENERAL SERVICES ADMINISTRATION

01-00-1884 01-13 103 214 3800 DLA BRAC OFFICE P.02

DEFENSE LOGISTICS AGENCY'S COMMENTS
ON THE INTERIM FINAL RULE
PUBLISHED IN THE 6 APRIL 1994 FEDERAL REGISTER

The following are DLA's comments on the interim final rule published in the Federal Register on 6 April 1994, entitled "Revitalizing Base Closure Communities and Community Assistance." Proposed changes are highlighted in bold print.

1. Page 16133, paragraph 91.7(g)(2): "The Secretaries of the Military Departments are authorized by Pub. L. 103-160, section 2906 to lease real and personal property at closing or realigning bases" DLA is concerned that our commanders, who are either tenants on or permitted hosts of installations, should have direct involvement in the leasing process for their personal property. For example, the City of Philadelphia has an interest in leasing the Defense Clothing Factory on the Defense Personnel Support Center compound, where we are the host. The facility is permitted to DLA by the Army. The Army, as owners of the real property, would execute the lease with the City. DLA, as owners of the factory equipment, would convey that equipment to the City under a separate agreement. Add the following statement:

(5) The Military Departments should coordinate with tenant or permitted base commanders on the lease of personal property not owned by the Service, when considering leasing real property on the installation.

2. Page 16133, paragraph 91.7(h)(2), line 19: "The exempted categories of personal property . . . shall not be subject to review by the community." Our field activities did total personal property inventories then determined what items should be exempted and what items were excess. To be consistent with the intent of the interim final rule, exempted property lists should be coordinated with redevelopment authorities to ensure they understand the military necessity to exempt those items. In paragraph 91.7(h)(5), "exempted personal property may be moved . . . after notice to the local redevelopment authority." If prior coordination was accomplished by reviewing a total inventory list with the redevelopment authority then moving exempted items would be less of a shock to the community.

3. Page 16133, paragraph 91.7(h)(3), line 11: "Based on these consultations, the base commander is responsible for determining the items or category of items potentially enhancing the reuse of the real property" We agree that the base commander should be the point of contact for the redevelopment authority. However, when the decision is made on what categories of personal property will enhance the community's reuse effort, he must coordinate with and get concurrence from his tenant commanders, who own the property. Change line 11 to read: "Based on these consultations, the base commander, **in conjunction with the tenant commanders**, is responsible for determining the items or category of items potentially enhancing the reuse of the real property"

4. Page 16133, paragraph 91.7(h)(3), second last line: "Disagreements should be resolved within the chain-of-command, with final authority . . . resting with the Secretary of the Military Department or Defense Agency Director responsible for the real property." Defense Agencies cannot own real property, they are permitted real property by the Services or are tenants on installations. Personal property is owned by each individual Service and agency. Therefore, the final authority for resolution of disagreements should rest with the Secretary of the Military Department or Defense Agency Director responsible for the personal property. Change the sentence to reflect this essential chain-of-command difference.

5. Page 16133, paragraph 91.7(h)(5): "Personal property may be removed without regard to these time periods upon approval of the base commander, or higher authority within the Military Department . . ." Add after Military Department "or Defense Agency." Rationale is the same as above, personal property is the responsibility of each individual service or agency and may or may not be under the jurisdiction of the base commander.

6. Page 16133, paragraph 91.7(h)(5)(i), line 14: Add after ". . . the major command having jurisdiction over the installation" the phrase "or Defense Agency with responsibility for personal property." Rationale same as above.

7. Page 16134, paragraph 91.7(h)(5)(v): This paragraph is vague. It should explain who the written request is sent to (Service Secretary, Agency Director, or base commander) for action. Also, what time limit should be imposed (i.e., 30 days, 6 months) when requests will no longer be honored.

8. Page 16134, paragraph 91.7(h)(5)(vi): After each instance where the Military Departments are mentioned add "or Defense Agency." Defense Agencies do possess NAFI property and this paragraph should apply to their NAFI property, as well.

Additionally, comments from our field commanders who attended the community outreach seminars indicated that they were very concerned with the liberal interpretation of the law as it relates to exempted personal property. The interim rule states we must do a personal property inventory and identify items that could enhance the communities redevelopment of a closing or realigning activity. It also states that "exempted personal property . . . shall not be subject to review by the community." It was our field commanders' impression that this part of the interim final rule would not survive the final version when all the community comments were received. In the 1994 Defense Base Closure and Realignment Act, Section 2909, Sense of Congress on Availability of Surplus Military Equipment, it states "it is the sense of Congress that the Secretary of Defense take all actions practicable to make available military equipment . . . to communities suffering significant adverse economic impact resulting from base closures." The military equipment referred to by Congress is surplus equipment that is scheduled for retirement or disposal as a result of downsizing, base closure, or realignment. Congress further stipulates that the equipment has no other military uses. We need to remember Congress' intent when we write the final version of the personal property guidance.

1070 7/6

E 6/27

OFFICE OF THE DEPUTY SECRETARY OF DEFENSE
The Military Assistant
27 June 1994

MEMO FOR: MR. BOB BAYER, DASD / ER & BRAC

**SUBJECT: Concerns on Surplus Property Disposal at
Closing Military Bases**

**The attached Congressional 24 June multisignature letter to Dr.
Perry provided per Mr. Deutch's instructions:**

"Bob Bayer"

Very respectfully,



Pat Kane
Lieutenant Colonel, USA
Military Assistant to the
Deputy Secretary of Defense

Attachment
a/s

SUSPENSE: N/B

13119

C 25
Mr. D...
Dr. Casanova
Bob Boyer

Congress of the United States
House of Representatives
Washington, DC 20515

June 24, 1994

The Honorable William Perry
Secretary of Defense.
Room 3E880
The Pentagon
Washington, DC 20301

DEP SEC DEF
HAS SEEN
JUN 27 1994

Dear Secretary Perry:

As Members of Congress with an interest in the efficient closure of military bases, we strongly support President Clinton's five-point plan to spur community economic reinvestment. We appreciate your support for the President's initiative and the provisions of the "Pryor Amendment" incorporated in Title XXIX of the National Defense Authorization Act for Fiscal Year 1994 which establish the President's goal of assisting our communities adjust to a peace time economy.

We are concerned however, that the means chosen to meet this goal could put an unnecessary burden on state and local governments. The Department of Defense interim final rule, published in the April 6, 1994 Federal Register, encourages DoD disposal agents to offer surplus property at closing military bases to private parties before surplus land and real property become available to the impacted communities. Furthermore, there is no requirement that the sale or disposal of property be in accordance with the community reuse plan, which is the cornerstone of all federal and local efforts to put the property into productive civilian reuse. These issues are of great concern to local and state governments which had hoped to convert excess military land for public use, and fear they will be dragged into costly bidding wars with private entities.

The importance of an expedient property transfer process is crucial to the economic revitalization of impacted base closures communities. Although the interim final rule leaves current public use categories in place, objections raised by our state and local governments suggest that the Interim final rule does not meet the President's stated purpose which is to put "economic development at the center of base closure asset disposition." If our local governments can provide for effective economic growth, they should not be inhibited by unnecessary Federal costs.

We urge you to give careful consideration to comments provided by impacted state and local governments. By doing so, the Department of Defense will better carry out the President's stated goal of assisting communities to quickly adjust to base closures.

Sincerely,


SAM FARR
Member of Congress


ROBERT A. UNDERWOOD
Member of Congress

SECDEF CABLE DISTRIBUTION	
SECDEF	<input checked="" type="checkbox"/>
DEPSEC	<input type="checkbox"/>
SECASST	<input type="checkbox"/>
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SECSEC	<input type="checkbox"/>
DALECH	<input type="checkbox"/>
FILE	<input type="checkbox"/>

J. P. Minter
B. B. Filmer

~~[Signature]~~
Lynn Schenk

Jane Hamer
Marion Furst

Faye Miller
Bill McCall
~~[Signature]~~

Ken Calvert
John W. Oliver

Glen Browder

Harold V. Kellum

James Greenwood
Ann Lawrence
Nancy Pelosi

Dan Houtsburg

Don Edwards

George E. Browning
Tommy P. Hill

Paul Gayle

Jim Bancia
Marty Meeks

Blanche M. Lambert

Stephen H. H.

Vic F.

Cheswood Baker

~~002 C. Shoo~~

Chiffley

Jack Reed

John R. Way

George Hochmuth

Paul Schroeder

Norm D.

Robert J. M.

Cyrus M. K.

Walter B. G.

Richard P.

Pat T. D.

Neil A.

Ray T.

Lynn C.

James E. C.

May L.

Harvey F.

FARR/UNDERWOOD CO-SIGNATORIES

JOHN MURTHA	RONALD DELLUMS
BOB FILNER	JAMES GREENWOOD
JOHN MICA	ARTHUR RAVENEL
LYNN SCHENK	NANCY PELOSI
JANE HARMAN	DAN HAMBURG
MARTIN FROST	DON EDWARDS
GEORGE MILLER	GEORGE BROWN
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PATSY MINK	NEIL ABERCROMBIE
RAY THORNTON	LYNN WOOLSEY
JAMES CLYBURN	SONNY CALLAHAN
NORM MINETA	

The Massachusetts Government Land Bank
One Court Street, Suite 200, Boston, Massachusetts 02108 (617) 727-8257, FAX (617) 727-8741

1071
7/6

July 1, 1994

Office of the Assistant
Secretary of Defense for Economic Security
The Pentagon, Room 3D854
Washington, D.C. 20301

Re: Comments on the Department of Defense, Interim
Final Rule, Revitalizing Base Closure Communities
and Community Assistance, Dated April 6, 1994 (the
"Interim Rule")

Ladies and Gentlemen:

The Massachusetts Government Land Bank (the "Land Bank") is the lead agency for the redevelopment of Fort Devens, Massachusetts, which was slated for closure in the 1991 round of base closures. We have made substantial progress on the redevelopment of Fort Devens since the closure was announced, including the passage of landmark legislation by the Massachusetts state legislature creating the Devens Regional Enterprise Zone.

The issuance of the President's Five-Part Plan, "a Program to Revitalize Base Closure Communities," combined with the passage of Title XXIX of the National Defense Authorization Act for Fiscal Year 1994, the so-called Pryor Amendment, offered a great deal of hope that the new rules governing the disposition of real and personal property at closing bases would encourage local redevelopment efforts and job creation. Unfortunately, the Interim Rule fails to recognize the critical role local redevelopment authorities play in successful base conversion projects, and unrealistically assumes that jobs will be created through fair market value sales by the military departments.

Edward H. Linde
Chair

Susan Y. Friedman
Vice Chair

Brenda Attia
Secretary

Langley C. Keyes
F. Tenney Lantz

Louis S. Moore
Richard W. Reynolds

Mark Robinson
ex officio

Mary L. Padula
ex officio

Timothy A. Bassett
Executive Director

We do not believe this emphasis is consistent with the spirit of the President's Five-Part Plan or the letter of the Pryor Amendment, and urge you to redraft the Interim Rule so that local/federal joint venture efforts are encouraged and supported. It is only through such joint venture efforts that the federal policy goals of job creation and creating value at closing military



bases will be realized.

I have attached more specific comments on the Interim Rule for your review and consideration. We would be pleased to discuss our views with you in more detail, and appreciate the opportunity to provide these comments.

Sincerely,
MASSACHUSETTS GOVERNMENT LAND BANK

Jeffrey A. Simon

By: Jeffrey A. Simon
Director, Fort Devens Division

JAS/jr
Enclosures

COMMENTS OF THE MASSACHUSETTS GOVERNMENT LAND BANK
ON THE DEPARTMENT OF DEFENSE, INTERIM FINAL RULE,
REVITALIZING BASE CLOSURE COMMUNITIES AND COMMUNITY ASSISTANCE
DATED APRIL 6, 1994 (THE "INTERIM RULE")

1. Compatibility with the President's Five-Part Plan

The primary goal of the President's Five-Part Plan is to create jobs by making property disposal to local redevelopment authorities a high priority, in recognition of the fact that local redevelopment authorities, and not the military departments, have the expertise and experience necessary to make job-creating projects a reality. Title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (the "Pryor Amendment") provided the statutory authority necessary to implement this goal, by allowing the military departments to proceed with "no initial cost" transfers to local redevelopment authorities. The Interim Rule reverses this course in the face of clear presidential and congressional direction, and puts the emphasis back on the sale of base property for fair market value by the military departments.

2. Problems with the "Ready Market" Requirement

The Interim Rule requires that where a "ready market" exists for property, it should be sold quickly by the military department to create jobs, and where a "ready market" does not exist, the property may be made available to local redevelopment authorities on a "no initial cost" basis. More specifically, the

military departments are required to first, identify properties that are readily marketable, second, determine the value of these properties by appraisal and a six-month solicitation for offers to buy, and third, sell these properties quickly to produce jobs.

This scheme has serious flaws.

- The military departments have a very limited ability to identify parcels that have a "ready market," and the Interim Rule provides no guidance.

- The value of base property is dependent, to a large degree, on factors beyond the control of the military departments i.e. local zoning and permitting requirements, long-term availability of utilities and services and tax rates.

- The six-month solicitation period will delay the disposal process, and has the potential of damaging the real marketing of bases that redevelopment authorities must undertake, by raising expectations of potential buyers that cannot possibly be fulfilled by the military departments. For example, the Army at Fort Devens does not appear to have the ability or desire to make any kind of long-term commitment for utilities and services to potential purchasers, which is not surprising when you consider the fact that the Army is closing the base.

- At Fort Devens, a large majority, if not all, of the parcels that could theoretically fit the "ready market" category cannot be sold until the superfund clean-up is

completed, which may take another four years.

- The assumption that the "quick sale" of readily marketable properties will result in creation of jobs is simply incorrect. Attracting job-producing companies to Fort Devens will require sophisticated marketing, a coherent reuse plan, regulatory stability and numerous financial incentives. The simple availability of property at Fort Devens will not attract job-producing companies.
- There is a special opportunity at Fort Devens to, over time, maximize the value of the base and jobs created, through a joint venture that takes advantage of the unique authority of, and resources available to, the Massachusetts Government Land Bank. The Interim Rule fails to recognize the importance of local redevelopment powers, and the value of a joint venture structure.

3. Encourage Joint Ventures

The Interim Rule should encourage military departments to enter into joint venture arrangements with redevelopment authorities, as opposed to going into excessive detail about marketability. The military departments need guidance in this regard.

4. Expand "Rural Area" Definition

The Pryor Amendment requires that bases in rural areas, where closure has caused substantial adverse economic impacts, be transferred on a "no initial cost" basis. The Interim Rule defines rural areas as areas outside Metropolitan Statistical

Areas ("MSA's"). Fort Devens is in an MSA, but is located in four very small communities with relatively weak commercial real estate markets. The Interim Rule should be revised to allow for the inclusion of bases such as Fort Devens in the rural area definition. The Interim Rule also uses a slightly varied version of the "ready market" test to define adverse economic impacts. As pointed out above, this test is seriously flawed.

5. Strengthen Property Screening Provisions

The Pryor Amendment contains language requiring military departments to consult with redevelopment authorities regarding the impact of federal screening requirements on reuse plans. The regulations should put "teeth" into this consultation requirement in order to ensure that the primary focus of federal base-closing policy, which is the creation of jobs, is not diluted by the missions of other federal agencies through the screening process.

6. Personal Property

The personal property disposal process is controlled by the base commander, and in the case of the Army, Forces Command. There is a high likelihood at Fort Devens that Forces Command will claim critical pieces of equipment to use at other Army facilities. Such claims could have a serious budgetary impact on early reuse operations. The ability of Forces Command to divert equipment to other bases should be severely limited.

7. Clarify McKinney Act Provisions

Under federal law and regulations, the military departments have some discretion to critically review and even reject

McKinney Act requests that are clearly not viable. DOD and the military departments have backed off completely in terms of asserting this authority. Again, in view of the primary federal purpose here (job creation), the Interim Rule should provide the military departments some guidance and encourage a more aggressive stance. In addition, the Interim Rule should clarify, to a greater degree, that following the "one time" McKinney Act screening, the claim of the remainder of a base by a redevelopment authority definitely ends any further McKinney Act screening and claims.

8. Profit Sharing - Simplify the Definition of "Net" Proceeds

The definitions contained in the Interim Rule of allowable redevelopment authority deductions for capital and operating costs are unnecessarily restrictive and cumbersome. These definitions should be simple, clear and flexible enough to allow the military departments to respond to particular circumstances without having to worry about how to interpret overly-complicated language.

Pacific Gas and Electric Company

Robert D. Glynn, Jr.
Executive Vice President
P. O. Box 770000
San Francisco, CA 94177

BRAC

4

June 29, 1994

1072
7/6



Joshua Gotbaum
Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

Dear Mr. Gotbaum:

Pacific Gas and Electric Company (PG&E) is the largest investor-owned electric and gas utility in the United States, serving 4.3 million electric and 3.5 million gas customers in Northern and Central California. Fourteen military bases are now closing within PG&E's service territory. Our company has a strong history of economic development support and involvement in the communities that it serves. PG&E is committed to working collaboratively with cities, community reuse groups, and the DoD, in the development of vital reuse strategies for communities faced with the challenges of base closures.

On May 13, 1994, PG&E representatives attended the Department of Defense (DoD) regional outreach seminar in San Francisco to hear details of the 1994 National Defense Authorization Act. Below is a summary of our comments on the interim rule implementing Title XXIX of the 1994 Act. They are also included in the format requested by the DoD.

1. Utility infrastructure conveyance of gas and electric systems from military departments to local communities was not included in any section of the DoD interim rule implementation guidelines.
2. Redevelopment plans, as postulated by DoD representatives at the San Francisco outreach seminar, would require that if a master or interim military parcel lease were negotiated, the maintenance and repair of all infrastructure, including utilities, would be the responsibility of the lessee.

Joshua Gotbaum
June 29, 1994.
Page 2

While the DoD understands that the manner in which real and personal property on closing bases is disposed of may have a dramatic impact on the vitality of a regional economy, it is also important to recognize that early reuse and rapid redevelopment within base closure communities is dependent on sound, safe infrastructure systems that will attract and support redevelopment plans. Future ownership and maintenance of base-related gas and electric utility systems should, therefore, be addressed by the interim rule along with redevelopment plans and leasing of real property.

The feasibility of potentially requiring that utility repair and maintenance be the responsibility of master or interim lease holders of military property does not appear to be realistic or prudent. Under such a scenario a local redevelopment authority, college district, or other public benefit conveyance entity could be responsible for substantial costs to upgrade and maintain the gas and electric infrastructure to meet state construction and safety codes. In fact, utility infrastructure in most bases in PG&E's service territory is substandard in regards to safety and reliability. Regardless, whether military parcels are leased, conveyed as a public benefit, or sold for shared profit, these substantial costs need to be resolved early in property transfer negotiations with communities.

In addition to these comments, PG&E strongly supports the comments and recommendations submitted to the DoD by the State of California Office of Planning and Research, and the National Association of Installation Developers (NAID), of which PG&E is a member.

We appreciate this opportunity to provide comments. We look forward to working collaboratively with the DoD and the communities we serve in California to address this important reuse issue.

Sincerely,

A handwritten signature in dark ink, appearing to read "Joshua Gotbaum", written in a cursive style.

Attachments

COMMENT No. 1

**COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY 1994**

From: Pacific Gas and Electric Company (PG&E)

Page: N/A
Column: N/A
Paragraph: N/A

Recommended Additions:

The interim rule should address the method of conveyance of gas and electric systems from military departments to local communities.

Why:

Early reuse and rapid redevelopment within base closure communities will be dependent on sound and safe infrastructure systems that will attract and support redevelopment plans. Future ownership and maintenance of base-related gas and electric utility systems should, therefore, be addressed within the interim rule along with redevelopment plans and leasing of real property.

Contact Name: Kersti Bronk
Contact Address: PG&E, Community and Local Government Relations Dept.
P.O. Box 770000, Mailcode B28A,
San Francisco, CA 94177
Contact Phone: (415) 973-3032

COMMENT No. 2

**COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94**

From: Pacific Gas and Electric Company (PG&E)

Page: N/A

Column: N/A

Paragraph: N/A

Recommended Additions:

Redevelopment plans, as proposed by DoD representatives at the May 13, 1994 San Francisco outreach seminar, would require that if a master or interim military parcel lease were negotiated, the maintenance and repair of all infrastructure, including utilities, would be the responsibility of the lessee. The interim rule should address the financial feasibility of this proposal.

Why:

Under this scenario, a local redevelopment authority, college district, or other public benefit conveyance entity could be held responsible for substantial costs to upgrade and maintain the gas and electric infrastructure to meet state construction and safety codes. In fact, many bases in PG&E's service territory have substandard utility infrastructure in terms of reliability and safety. In all cases, whether military parcels are leased, conveyed as a public benefit, or sold for shared profit, these substantial costs need to be considered early in property transfer negotiations with communities.

Contact Name: Kersti Bronk
Contact Address: PG&E, Community and Local Government Relations Dept.
P.O. Box 770000, Mailcode B28A,
San Francisco, CA 94177
Contact Phone: (415) 973-3032

Helen

LAW OFFICES OF

LOEB AND LOEB

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

1000 WILSHIRE BOULEVARD
SUITE 1800

LOS ANGELES, CALIFORNIA 90017-2475

TELEPHONE (213) 688-3400

FACSIMILE (213) 688-3460

CABLE ADDRESS "LOEBAND"

TELEX 67-3106

1073
7/7

CENTURY CITY OFFICE

10100 SANTA MONICA BOULEVARD
LOS ANGELES, CALIFORNIA 90067-4164
13101 282-0000
FACSIMILE 13101 282-8122
TELEX 67-3106

WRITER'S DIRECT DIAL NUMBER

(213) 688-3610

NEW YORK OFFICE

345 PARK AVENUE
NEW YORK, N. Y. 10154-0037
(212) 407-4000
FACSIMILE (212) 407-4000
TELEX 67-3106

NASHVILLE OFFICE

45 MUSIC SQUARE WEST
NASHVILLE, TENNESSEE 37203-3205
(615) 748-8300
FACSIMILE (615) 748-8308
TELEX 67-3106

EUROPEAN OFFICE

PIAZZA DIGIONE, 1
00187-ROME
ITALY
011-398-806-8466
FACSIMILE 011-398-874-8223**CERTIFIED MAIL**
RETURN RECEIPT REQUESTED

July 5, 1994

Office of the Assistant Secretary of Defense
for Economic Security
Room 3D854, The Pentagon
Washington, D.C. 20301Re: Interim Final Rule - Revitalizing Base Closure
Communities and Community Assistance - Title XXIX of
National Defense Authorization Act for Fiscal 1994

Gentlemen:

The following comments are respectfully submitted for
your consideration:

1. Use of a Master Ground Lease as a Financing Technique
as an Alternative to Outright Sale for Economic
Development Transfers.

Significant long term financing potential may be lost if property identified as having a high value and a ready market is simply sold outright. For example, the purchase price of such property is likely to come from mortgage loans. The purchaser/reuse developer then faces significant debt service burdens which frequently result in less funds available to implement a comprehensive reuse plan.

As an alternative, the use of a master ground lease would allow the underlying high market value property to be captured and used as collateral to support land secured bond financing such as California's Mello-Roos financing or a large variety of similar special district assessment financing to provide lower cost long term financing for infrastructure, rehabilitation, hazardous waste clean up, as well as for maintenance. The use of a master ground lease and such land

LOEB AND LOEB

Office of the Assistant Secretary of Defense
for Economic Security

July 5, 1994

Page 2

secured public financing can provide significant savings through the intelligent phasing of redevelopment as well as allowing the base closure community to more effectively monitor and control achieving its long term comprehensive plan of reuse.

The use of ground lease financing rather than outright sale can essentially convert the property to be transferred into a renewable asset for the impacted community. This type of financing is also more flexible in terms of addressing the needs of public/private partnerships increasingly used for meaningful economic development.

2. Alternative Use of Outright Sale Proceeds for Credit Enhancement.

To the extent outright sales are used (in lieu of the above suggested ground lease financing) serious consideration should be given to the use of the proceeds from such sales being placed in pools or used to capitalize entities specially formed to provide credit enhancement for subsequent public and private financing to enable the impacted communities to access capital markets and generally to attract the broadest range of investors to participate in base reuse development.

3. Community Reinvestment Act, Community Banking and Economically Targeted Investments.

Consideration should also be given to consultation with bank regulators currently engaged in formulating amendments to the Community Reinvestment Act of 1977,¹ the implementation of the new Community Development Corporation and Project Investment regulations,² as well as with the House Banking and Senate Banking Committees meeting in connection with the proposed Community Development, Credit Enhancement and Regulatory Improvement Act of 1994 (HR 3474), and with pension officials involved in the emerging Economically Targeted Investment programs within public and private pension funds. Such consultation could form the basis for outreach programs for impacted communities to focus on the complementary nature of these regulatory and legislative changes and pension fund programs as an additional financing source for military base

¹ 58 Federal Register 67466 (December 21, 1993)

² 58 Federal Register 68464 (December 27, 1993)

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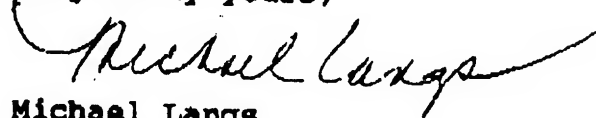
Office of the Assistant Secretary of Defense
for Economic Security

July 5, 1994

Page 3

reuse without compromising the safety and soundness principles articulated in the banking regulations or the prudence and risk adjusted requirements of the public and private pension funds.

Very truly yours,

Michael Langs
of Loeb and LoebML:kw1
666666666
LAM21874.L02



SCANA Corporation
Columbia, SC 29218

July 1, 1994

1074
7/7

Office of the Assistant Secretary of Defense
for Economic Security
The Pentagon
Room 3D814
Washington, D. C. 20301-3300

Re: Interim Final Rule, 59 Fed Reg. 16,123 (1994)

Ladies and Gentleman:

This letter is in reference to the interim final rule (the "Rule") proposed by the Department of Defense to implement Title XXIX of the National Defense Authorization Act for Fiscal Year 1994. SCANA Corporation, a South Carolina corporation, engaging in energy related activities offers the following comments on the Rule. The comments generally focus on upgrades that will be needed to the electric distribution system at the Charleston Naval Complex to meet state and local codes. Unfortunately, with the Naval Complex being federal property, it most likely does not currently meet these standards.

As a corporation that will be impacted by the closure of the Charleston Naval Complex, SCANA applauds this effort to expedite the reuse of closed military bases. Unlike the traditional property disposal methods, which focus primarily on maximizing proceeds from the sale of real and personal property, the Rule allows conveyances of property at or below fair market value to local redevelopment authorities in an effort to encourage economic development.

The Charleston Trident's BEST (Building Economic Solutions Together) Committee has recently published its Base Reuse Plan, and the South Carolina General Assembly has passed legislation authorizing the creation of a local redevelopment authority. The legislation is currently awaiting the Governor's signature and, upon his signature, the appointment of the authority members.

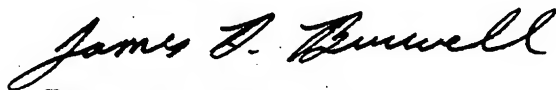
Section 91.7(i)(3) addresses the minimum level of maintenance and repair the Department of Defense will provide to facilities. The Rule does not allow any improvements to the property to include construction, alteration, or demolition, except that required by environmental restoration. The Charleston Naval Base Reuse Plan identifies major capital investments that will be needed at the Naval Complex before

redevelopment of the Complex is feasible. Included in the capital projects are upgrades and replacement of the basic utilities system. For example, the plan calls for the removal of the above ground steam system because it is not practical to operate for the uses proposed by the Reuse Plan. In addition, electric power distribution systems need upgrading to bring consistency to the power supply, and numerous code issues must be rectified. The Base Reuse Plan estimates the cost for the necessary upgrades to the utility system (water, sewer, power, etc.) to be \$14 million.

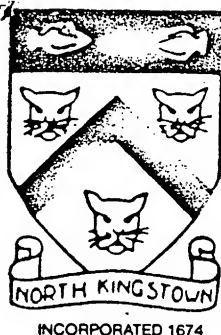
One of the basic aspects of a effective reuse effort is an adequate and reliable infrastructure system. Unfortunately, such a system does not exist at the Charleston Naval Complex. The electric system at the Complex likely has a negative market value, thus creating a disincentive for purchase by an outside group. Therefore, the cost of upgrading the system will fall on the redevelopment authority or the local community. This would place a tremendous burden on entities that are trying to recover from the base closure.

It would appear the intent of the Rule is to expedite the conversion of closed military bases to productive uses. As the Department of Defense must meet certain environmental requirements before turning a base over for civilian use, it should also meet certain infrastructure standards before a base is converted to civilian use. While there is some financial assistance from the federal government for infrastructure improvement such as the Economic Development Administration, the funding in the program is not adequate to address the local needs. Therefore, I suggest the Rule allow upgrades to be made by the Department of Defense to the infrastructure system to comply with state and local requirements. The level of upgrades could be determined in consultation with the redevelopment authority.

Sincerely,



James D. Burwell
Manager, Governmental Affairs



TOWN OF NORTH KINGSTOWN, RHODE ISLAND

80 BOSTON NECK ROAD
NORTH KINGSTOWN, RI 02852-5762

1075
7/7

June 29, 1994

Mr. William Perry, Secretary of Defense
Attn: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

RE: Pryor Amendment, Implementation Rules and Regulations

Dear Secretary Perry:

On behalf of the Town of North Kingstown, I write in response to the call for comment on the Interim Rule Implementing Title XXIX of the National Defense Authorization Act for FY94, otherwise known as the Pryor Amendment. As requested, the Town has used the form provided by the Department of Defense for comments and such are attached. For brevity purposes, and in recognition of the follow-up material developed by the Defense Department that reflects issues raised at the Outreach Seminars, the Town has limited its comments to specific portions of the implementing rules where the adoption of the rules and regulations would compromise the locally adopted Base Re-Use Plan, the spirit and intent of the Base Closure process, and economic re-use of military installations.

We would also like to share some general thoughts about the rules. First, while the Town welcomed the Pryor Amendment and its rightful emphasis on the potential for economic development through base re-use, the rules for implementing such, we believe, have complicated the process and added delay to the transfer of property. This appears to be the case as it relates to our efforts directed at the re-use of the Davisville Naval Construction Battalion Center here in North Kingstown; based on comments at the Outreach Seminar, it appeared other base closure communities had the same concerns. Needless to say, we have looked to the Federal government to be a leader in implementing the Administration's policy of streamlining government. We trust these rules when finally adopted will reflect such.

Second, as we reviewed the rules, we tried to apply them to the experience the community has had to date; as a 1991 Base Closure, a plan for Davisville has already been prepared and adopted locally and by the state. An overall concern that emerged from our review of the rules was a minimal reference to the local community and instead an emphasis on the local redevelopment authority. Our review suggests the language of the rules and the procedure and process articulated need to be structured to assure local interests are a part of the planning process from the commencement.

Page 2

We appreciate the opportunity to comment. If your staff has any questions about the issues raised in our letter or in the attachments, they should contact Marilyn F. Cohen, Director of Planning, at (401) 294-3331, Ext 55.

Sincerely,

A handwritten signature in dark ink, appearing to read 'R. Kerbel', written over the word 'Sincerely,'.

Richard Kerbel, Town Manager

Attachments

cc: Leo Tomasetti, Base Transition Coordinator
George Prete, Associate Director, Rhode Island Port Authority
Marilyn F. Cohen, Director of Planning

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Town of North Kingstown/Davisville Naval Construction Battalion Center
(Activity/Location/Community/Installation/Group)

Page 16126

Column 2

Paragraph 90.3 (e)

Recommended Changes:

1. Omit words "For developing the redevelopment plan with respect to the installation..."
2. Create separate definition for Base Re-Use Plan Committee whose responsibility it is to prepare a plan for the re-use of the military installation.

Why:

The designation of a redevelopment authority is the likely outcome of the base re-use planning process. In some instances, what agency will be responsible may be apparent from the initiation of the base re-use planning process. In most locations it is more likely the case that necessary negotiations for designation of a redevelopment authority will be part of the plan process.

Name: Richard Kerbel, Town Manager
Address: Town of North Kingstown
80 Boston Neck Road
North Kingstown, RI 02852
Phone: (401) 294-3331

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Town of North Kingstown/Davisville Naval Construction Battalion Center
(Activity/Location/Community/Installation/Group)

Page Beginning on 16126

Column 2

Paragraph 90.4 (1) (i) and continuing throughout the Rules wherever a reference
is made to providing transfers to a redevelopment authority
Recommended Changes: for economic development public benefit transfers.

Add the following after the words "redevelopment authority": "...or local
community, as designated in the adopted base re-use plan,..."

Why: The regulations as written would preclude the local community from receiving an economic development public benefit if they were not the designated redevelopment authority. At Davisville, the Rhode Island Port Authority is the designated redevelopment authority; however, consistent with the adopted Base Re-Use Plan, the town seeks to acquire a small marina area to be used for recreation and commercial fishing facilities. The commercial fishing uses preclude applying for a public benefit via the Department of Interior. To leave the parcel to the private market would likely force out the commercial fishing uses to higher paying activities. In seeking to acquire the parcel, the town is responding to comprehensive plan policies supporting the historic economic endeavors of the commercial fishing industries.

Name: Richard Kerbel, Town Manager
Address: Town of North Kingstown
80 Boston Neck Road
North Kingstown, RI 02852
Phone: (401) 294-3331

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Mark Klaiman
222 27th Street
San Francisco, CA 94131

June 24, 1993

Office of the Assistant Secretary
of the Defense for Economic Security
Room 2D854
The Pentagon
Washington, D.C. 20301

1076
7/7

Re: Comments on Proposed Rule
Section 2908 of the Defense Authorization Act
April 6, 1994 (59 Fed. Reg. 16157)

Dear Sir or Madam:

The following are my comments on the Department of Defense's ("DOD") proposed guidance to implement section 2908 of the National Defense Authorization Act for Fiscal Year 1994:

The Proposed Rule attempts to establish a mechanism by which portions of closing military installations could be transferred to the private sector more expeditiously than is currently taking place. The Proposed Rule would allow the DOD to transfer contaminated portions of closing military installations for the cost of cleanup to persons who agree to perform the environmental restoration if the cost of such restoration exceeds the estimated value of the property to be transferred.

A significant problem with the Proposed Rule is that it provides no justification as to how transfers contemplated by the Proposed Rule will be completed in a manner that does not violate Section 120(h) of CERCLA. CERCLA section 120(h)(3) provides that prior to the transfer by deed of a parcel on which hazardous substances were stored for one year or more, known to have been released or disposed of, that the United States must provide a covenant that "all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before that date of such transfer." The phrase "has been taken" is defined in CERCLA section 120(h)(3) to mean "the construction and installation of an approved remedial design has been completed and the remedy has been demonstrated to the Administrator to be operating properly and successfully." It is unclear how transfer would be expedited when compliance with this provision is required. For example, if a buyer wishes to purchase a parcel with contaminated ground water beneath the parcel, 120(h)(3) would prohibit the consummation of such transfer by deed until after the design and construction of a pump and treat system. At many closing installations this date could still be many years in the future.

In addition to the major deficiency noted above, there is a series of implementation essentials the Proposed Rule fails to address:

1. The transfer of closing military installations pursuant to the Proposed Rule is premised on the notion that one can calculate the cost of cleanup. Past practices at military installations indicate that the DOD is unable to accurately calculate such costs. This issue may arise, for example, at installations where the selected remedy is long term pumping of ground water and it is unclear how long such pumping must continue.

2. The transfer of property pursuant to the Proposed Rule is contingent on an "estimate of the value of the base." Should the estimated cost of cleanup exceed the estimated value of the base the buyer must make up the difference. This provision is vague with regard to at least four issues:

- a) If the transfer includes only a portion of the closing installation, is the value of that portion of the installation used in the comparison or is the value of the entire base used?
- b) Is the estimated value of the base the current estimated value (i.e., pre-completion of the CERCLA cleanup) or the future value of the base (i.e., post-completion of the CERCLA cleanup)?
- c) The estimated value of the base must exceed the cost of cleanup in order for the buyer not to have to make up the difference. Does "cost of cleanup" mean the costs incurred by the buyer to complete the cleanup after receiving the property or the total costs of cleanup (i.e., including both costs incurred by the DOD prior to transfer and cost incurred by the buyer subsequent to transfer)?
- d) Who decides the estimated value of the base and the estimated cost of the cleanup? If the estimated numbers are inaccurate will the buyer be obligated to pay more later/will DOD refund some money to the buyer?

3. Prior to transfer, the buyer must demonstrate "the ability to adequately perform all required environmental clean-up, waste management and environmental compliance activities." This provision is vague with regard to at least three issues:

- a) The Proposed Rule provides no indication as to how a buyer would demonstrate such an ability (e.g., financial capability, technical expertise, compatibility with existing remedial activity, etc.)

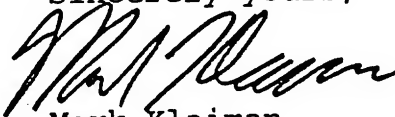
- b) If a buyer were purchasing only a portion of a closing military installation, the Proposed Rule provides no guidance as to the role and responsibility of the buyer with regard to clean-up activities underway and/or contemplated by the DOD, or by other buyers of a different portion of the base, on the remainder of the installation. For example, how would the DOD ensure the compatibility of multiple remedial actions being performed by various buyers?
- c) The Proposed Rule does not address how clean-up tasks not identified at the time of transfer would be addressed. Thus it is difficult to ascertain how a buyer would demonstrate the ability to complete cleanup tasks not yet identified. This issue is complicated by the requirements of section 120(h)(3)(B)(ii), which provides that any additional remedial action(s) found to be necessary after the transfer shall be conducted by the United States. The 120(h)(3)(B)(ii) requirements make it unclear if: (i) the buyer would be obligated to perform any future cleanup tasks; or (ii) the buyer would be obligated to perform all non-remedial cleanup tasks (i.e., additional removal actions, including remedial investigation/feasibility study; RCRA corrective action).

4. The Proposed Rule states that a buyer of property pursuant to this provision must stipulate that the buyer will meet all environmental restoration, waste management and environmental compliance activities required under Federal and State laws, administrative decisions, agreements (including schedules and milestones) and regulatory concurrences. It is unclear how this provision would be implemented at those closing military installations on the National Priorities List which have Interagency Agreements ("IAG") with EPA pursuant to CERCLA 120. These IAGs traditionally include enforceable schedules and stipulated penalties for failure to meet such schedules. The transfer of the property from DOD to the buyer will be perfected via a contract, thus the remedies available should the buyer not perform the cleanup tasks required would be those available for breach of contract (i.e., damages or specific performance). EPA would not be a party to this contract nor, arguably, a third party beneficiary of this contract; thus EPA would not be able to bring an action for breach of contract should the buyer not perform the necessary response actions. Because DOD has binding obligations with EPA, via an IAG, independent of DOD's contract with a buyer, the Proposed Rule (especially when coupled with EPA's inability to enforce the contract) would appear to make DOD responsible for payment of stipulated penalties should the buyer fail to meet an enforceable schedule in an IAG.

5. Section F of the Proposed Rule appears to be drafted in a manner which would allow the military to avoid its obligations to address environmental concerns at closing military bases. As drafted, section F would appear to allow the military to make a binding agreement to transfer property in the future if the buyer agrees to and completes all remedial action necessary to protect human health and the environment. While such an agreement would negate the delay in use of the property by a third person when long-term clean-up was necessary, permitting persons to enter into the process of cleaning-up closing military installations after much of the investigative work has been completed could delay cleanup of such installations. At closing installations with IAGs such delays would then subject the Department of Defense to stipulated penalties.

Thank you for the opportunity to provide comments on the proposed rule. I look forward to receiving a full and comprehensive response to my comments.

Sincerely yours,



Mark Klaiman

B RAC

LAW OFFICES
HONIGMAN MILLER SCHWARTZ AND COHN
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
2290 FIRST NATIONAL BUILDING
DETROIT, MICHIGAN 48226-3583

HILIP A. GRASHOFF, JR.

DIRECT DIAL NUMBER
(313) 256-7973

TELECOPIER (313) 962-0176

LANSING, MICHIGAN
WEST PALM BEACH, FLORIDA
TAMPA, FLORIDA
ORLANDO, FLORIDA
HOUSTON, TEXAS
LOS ANGELES, CALIFORNIA

1077
7/7

June 29, 1994

Office of the Assistant Secretary of Defense
for Economic Security
Room 3D854
The Pentagon
Washington, D. C. 20301

Re: Proposed Rule - 32 C.F.R. Part 91, Section 91.7 (j)

Gentlemen:

Please be advised that this firm is counsel to Sands Township, Michigan ("Township") and on its behalf, submits these comments in opposition to proposed Rule 32 C.F.R. Part 91, Section 91.7 (j), which would govern the transfer of real property or facilities available as a result of a base closure to persons paying the cost of environmental restoration activities on the property.

Under the proposed rule, the Department of Defense would be able to transfer property for the cost of clean-up to persons who agree to perform environmental restoration. The proposed rule provides that "an agreement to transfer may be executed with any person, provided that the person can demonstrate to the satisfaction of the Secretary concerned the ability to adequately perform all required environmental clean-up, waste management and environmental compliance activities."

The Township is the site of a significant portion of K. I. Sawyer A.F.B. which is in the process of being closed. It has been determined that there are in excess of twenty (20) sites of contamination as defined by the Michigan Environmental Response Act, M.C.L.A. Section 299.601 et seq., as amended, each of which needs to be fully remediated and most of which are located in the Township. It is the concern of the Township that the proposed rule will not sufficiently protect the resources and residents of the Township in that the definition of the "considerations" which the secretary of the military department concerned may consider "appropriate" to protect the interests of the United States, may not be compatible with the local interests of the Township or its residents. While the proposed rule defines these "considerations" to include continued oversight and access to the property by federal, state and local regulatory agencies, land use limitations and provisions requiring a bond or other form of financial assistance, the Township believes that in cases where the harm to the environment over the years

Office of the Assistant Secretary of Defense

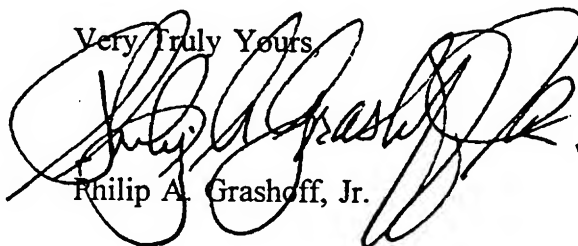
June 29, 1994

Page 2

has been significant, and in many instances, almost irreversible, there must be more certain and detailed directions given to the secretary, as to what might be "appropriate" under the circumstances, including mandatory financial assurances by bond, cash or otherwise, in order to fully cover the cost of remediation. As presently proposed, the rule affords too much discretion in the secretary of the military department concerned, without local input. Thus, in the Township's view, the proposed rule insufficiently protects the local municipality and its constituents, particularly if the property reverts to the municipality after the person agreeing to clean-up the site goes bankrupt or refuses to pay for the required remediation for any reason.

Based upon the forgoing, the Township objects to the proposed Rule 32 C.F.R. Section 91.7 (j), in that it does not provide adequate assurances for the local municipalities that the environmental harm caused by the military will be appropriately and fully remediated without impact or cost to the local community.

Very Truly Yours,

A large, stylized handwritten signature in black ink, appearing to read 'Philip A. Grashoff, Jr.', is written over the typed name.

Philip A. Grashoff, Jr.

PAG/ch

cc: Earl Yelle, Supervisor, Sands Township, Michigan

DET03/24602.1

YIM, OKUN & WATSON

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
3745 WHITEHEAD STREET, SUITE 101
MATHER FIELD
SACRAMENTO, CALIFORNIA 95655
TELEPHONE (916) 443-6500
TELEFAX (916) 443-8156

1078
7/7

RANDALL A. YIM
LORI T. OKUN
KELLY F. WATSON

OF COUNSEL TO
PARKER, MILLIKEN, CLARK, O'HARA & SAMUELIAN
A PROFESSIONAL CORPORATION

July 6, 1994

VIA FACSIMILE (703) 695-1493
AND U. S. MAIL

Joshua Gotbaum
Assistant Secretary of Defense (Economic Security)
Room 3D854
The Pentagon
Washington, D.C. 20301-3300

Re: Comments on Pryor Regulations: Interim Rules
For Revitalizing Base Closure Communities

Dear Assistant Secretary of Defense Gotbaum:

Thank you for this opportunity to comment on the Pryor Interim Rules. It has been my privilege to be actively involved in military base closure issues in California. I am a member of the California Military Base Reuse Task Force, appointed by California Governor Pete Wilson as the member with expertise in toxic clean-up. This Task Force was formed to examine the base closure and reuse process and recommend changes to make the process more successful and efficient. Our report to the Governor was issued in February 1994. As private environmental counsel, I also provide legal services to the County of Sacramento, California, for the closure and reuse of Mather Air Force Base, a BRAC I base closure and a Superfund site. I also provide legal services to the East Bay Conversion and Reinvestment Commission regarding the closure of the Alameda Naval Air Station complex, a BRAC III closure.

I have several specific comments which may be of assistance to you:

1. Jobs - Centered Property Disposal

The interim rule should be specifically modified or clarified to recognize the need of local redevelopment authorities (LRA) to retain certain property interests in real property marketed directly by the military departments. Specifically, before the military directly sells real property to third parties, it should examine the need of the LRA for

Joshua Gotbaum

July 6, 1994

Page 2

retained property rights, such as easements, to support redevelopment and reuse of the remainder of the military base. These easements would include, without limitation, easements for changes in the roadway patterns, rerouting of utilities, flood control or flood retention, access for remediation and redevelopment activities, and noise overflight. Sales by the military should specifically retain easements or other property interests necessary to support such reuse activities of the LRA.

The interim rule states that throughout the job center property disposal process, the military will make maximum effort to give community considerations a high priority. Most LRAs will consider the base as an entire functional unit, and develop a comprehensive reuse plan for the entire base, in attempting to integrate the base into the community at large. As a result, most LRAs will redesign roadways and other access to the base. Typically, military base roadways were designed to limit access or facilitate access internally without linkages to the outside community. Thus, a substantial rerouting of roadways is typically necessary. As a related example, the need to upgrade inadequate infrastructure will require, in many circumstances, the rerouting of utility lines, which not uncommonly go directly under buildings or areas to be developed. Finally, those bases with airports must not be constrained with the need to acquire noise or overflight easements to support the airport activities.

It was not intended that the military job-centered property disposal process would "cost" the LRAs. These costs could potentially be the costs of acquiring easements following the sale by the military, either directly or via the power of eminent domain. The threat of lawsuits alleging inverse condemnation could also be alleviated by retention of specific easements by the military for the benefit of the LRA, such as noise or overflight easements.

2. Economic Development Conveyances

Section 91.7(e)(4) requires the military to be fully responsible for the completion of an appraisal or other estimate of real property fair market value prior to making an economic development conveyance. This appraisal or estimate of value shall be based on the proposed reuse of the property. This process could potentially be very helpful in assisting in cost benefit decision making in the selection of environmental contamination remedial alternatives.

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Page 3

Current law does not require the military to select that environmental remediation alternative which maximizes reuse flexibility, market value and economic potential. In a private transaction, the owner or operator of property upon which contamination is located, will conduct remediation activities to balance the cost of remediation against the enhancement of market value or flexibility for reuse of the property following remediation. Such cost benefit mechanisms do not exist in the military base closure setting, where the majority of base real property will be transferred from the military to the local communities without consideration, or for less than fair market value consideration, under the public benefit conveyance process or the economic development conveyance process. As a result, there is little or no "market" incentive for the military to choose remedial alternatives, which may be more costly, but will significantly enhance reuse potential. Instead, the military typically groups its remediation activities into "operable units" to take advantages of economies of scale. These operable units are not necessarily consistent with the need of local communities to bring specific parcels of property into productive reuse at the earliest possible date.

Current law does not dictate a single "correct" or "right" remediation alternative for a particular contamination. Different remediation techniques exist, and variables include cost, duration of remedial activities, disruption to surface uses, level of contamination following remediation, interim health risks posed, the condition of the property following remediation activities, and most importantly, the remedial goal or standard to be achieved. These variables translate to differing limitations on land use following remediation.

Remediation goals may vary depending upon proposed land uses. Remediation standards, particularly those for soil, are typically based upon health risk analyses. Disputes may exist or arise regarding health risk exposures or the severity or likelihood of such exposures. The classic question, "how clean is clean," must be asked in virtually every remediation decision.

It is often the case that current environmental regulations and statutes allow several remedial alternatives to be identified and any one could be approved by the regulators. The military must then select from those alternative remedies identified during the remedial investigation/feasibility study phase.

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July 6, 1994

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No mechanism currently exists to require selection of that remedial alternative that best suits reuse needs. No mechanism currently exists to perform or assist in the performance of the cost benefit analysis to enable policy makers to decide whether to expend additional remediation dollars to enhance reuse or market potential. Current law neither requires the selection of remedies which enhance reuse, nor allows the military to justify the extra expenditure under its remediation program. Further, no mechanism exists to incorporate a cost benefit approach into the analysis of competing remedial alternatives and to factor such analysis into the final selection of remedies.

One of the main obstacles to use of a cost benefit approach, is the inability to "quantify" the enhancement to reuse caused by the selection of a particular remedy, which imposes less land use restrictions. The requirement that the military take responsibility and complete an appraisal or estimate of fair market value, pursuant to Section 9117(e)(4), could be incorporated into the cost benefit decision making process for remediation decisions. The estimate of fair market value could analyze the "value" of property given various reuse scenarios. The limitations upon these reuse scenarios caused by remedial activities could also be assessed at this time. The resulting "differential" in market value, which may exist under particular remedial alternatives, would allow quantification and analysis using the cost benefit approach, and thereby significantly aid remediation decisions.

3. Proposed Rule: Section 2908 Transfers of Properties For the Cost of Clean-up To Persons Who Agree To Perform the Environmental Restoration

As discussed at the numerous workshops regarding the Pryor Regulations, it is difficult to imagine anyone taking advantage of the Section 2908 Property Transfers, given the limitations included in the proposed rule. However, one possible scenario with value to both the military and the local reuse authorities could exist if the rule were modified to allow contingent transfers to persons who agree to perform site assessments to characterize the environmental condition of property proposed to be transferred.

One of the major hindrances to reuse planning is the lack of available site assessment data regarding the environmental condition of property. The environmental constraints may limit reuse planning options. Unfortunately, certain areas with high

Joshua Gotbaum

July 6, 1994

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priority for reuse may not be prioritized for early site assessment, because little or no contamination is suspected.

Section 2908 could be modified to allow a contingent transfer of property to persons willing to perform the necessary site assessments. The cost of the site assessments could then be deducted from the ultimate purchase price, similarly to the deduction for the cost of environmental clean-up. However, the proposed rule would have to be modified to allow a "contingent" acquisition; that is, the acquisition should be "contingent" so that the person performing the site assessment may opt out of the transaction should the site assessment show environmental issues which preclude the proposed reuse. In any event, a site assessment would be performed, and all data should be required to be shared with the military and LRA.

In this way, Section 2908 could assist in expediting site assessment of low contamination sites with potentially high priority for reuse. This would supplement the military's budgeting process which typically targets highly contaminated areas for first assessment and clean-up.

4. General Comments

Current military base closures are unique historically and require innovative and regional solutions. Traditional real property development mechanisms, and environmental clean-up policies must be reexamined for applicability and utility given the unique nature, rate and scale of military base closures.

Innovative approaches are required because of the significant regional impact of a closing base, and the lack of traditional market forces operating to mitigate these impacts. For example, there is no willing buyer or seller. The military typically did not ask for the bases to be closed; neither did the local communities. The local community does not have the opportunity to choose

the location, the timing, or the scale of its redevelopment activities. Concepts of fair market value in private discretionary transactions must be scrutinized carefully for applicability to the base closure setting.

Joshua Gotbaum
July 6, 1994
Page 6

Traditional remediation approaches, driven by market forces, also do not apply. In a private transaction, the owner or operator of property upon which contamination is located, will conduct remediation activities to balance the cost of remediation against the enhancement of market value or flexibility for reuse of the property following remediation. Such cost benefit mechanisms do not exist in the military base closure setting where the majority of the base is transferred from the military to the local communities without consideration under the public benefit conveyance process. As a result, there is no "market" incentive for the military to choose remedial alternatives which may be more costly, but will significantly enhance reuse potential. Instead, the military typically groups its remediation activities into "operable units" to take advantage of economies of scale. Because these operable units are not necessarily consistent with the need of local communities to bring specific parcels of property into productive reuse at the earliest possible date, low risk, low level contaminated sites, despite their high reuse potential, may not be prioritized by the military remediators for investigation, assessment and remediation.

The difficulties in both environmental remediation and property disposal caused by the lack of market forces, are exacerbated by the unequal bargaining power between the military and the local communities. The military has not clearly assessed the impact of transfer of negatively valued assets upon the local community. The military must be more sensitive to understand that the real property, the associated buildings, and the infrastructure, etc. at a closing base present liabilities to local communities. In many ways, transfer of bare and undeveloped land would be preferable.

This lack of assessment by the military may drive a "take it or leave it" approach. Unfortunately, the local communities cannot afford to "leave it." The rate, nature and scale of military base closures and the impact upon the local economy, in terms of jobs lost and the impact upon land use planning of such significant tracts of land in already developed areas, forces the local community to participate. It must be actively involved in acquisition of the base property and its successful conversion. It is not correct to assert that these are discretionary acquisitions by the local community. As a result, a "take it or leave it" policy potentially forces the local community to accept onerous conditions to the transfer of property, including deferred liabilities associated with the property transferred to it. Transferred buildings containing asbestos or lead-based paint, "as is," are but a few examples.

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Joshua Gotbaum

July 6, 1994

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The problems caused by the lack of market forces to moderate property disposal, redevelopment and environmental clean-up issues, exacerbated by the unequal bargaining power between the military and the local communities, dictate that novel approaches to resolving base closure obstacles be employed. It is hoped that the interim rules implementing the Pryor Amendment will be such mechanisms, and they appear to be very significant and positive first steps.

Thank you for this opportunity to provide my comments. If there are any questions, please do not hesitate to contact me.

Very truly yours,



RANDALL A. YIM



SUSAN GOLDING
MAYOR

June 29, 1994

1079
7/7

BRAC
Helen Forebeck

Mr. Joshua Gotbaum
Assistant Secretary of Defense (Economic Security)
The Pentagon, Room 3D814
Washington, D.C. 20301-3340

Re: COMMENTS TO THE INTERIM RULE IMPLEMENTING TITLE XXIX OF
THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

Dear Mr. Gotbaum:

The City of San Diego has reviewed the Interim Rule and enclosed are detailed comments, in the format requested by the Department of Defense (DOD), on the Interim Rule. These comments represent the position of the City of San Diego and its Naval Training Center Reuse Planning Committee.

The City takes strong exception to the rule as drafted, primarily to the proposed "Job-Centered Property Disposal" process. We do not find any evidence to cause us to believe that the approach being suggested will lead to rapid job creation, nor do we find any rationale for overriding the role of the "local redevelopment authority" in developing a viable local reuse plan.

We concur with the recent statement of the National Association of Installation Developers who have described the proposed rule changes as unnecessarily complex, "... the rules... reflect limited recognition as to the normal economic development role of state and local government in working with the private sector development community to create real estate value and new jobs in the reuse of property."

There are three overriding issues that set the context for our comments on the rule-making.

1. The philosophy implicit in the "Job-Centered Property Disposal" process that Local Redevelopment Authorities (LRA) (NTC Reuse Committee/City Council) may not be qualified to devise a plan that incorporates the "highest and best use" for a closed base and that only the "market" can make this determination. Therefore, DOD believes that in certain circumstances it may be appropriate to override the efforts of the L.R.A.

2. The DOD position that federal taxpayers should get all the profits when DOD disposes of high-value readily marketable assets, even when local communities may have originally conveyed the base to DOD at less than fair market value or free of charge.
3. The position of DOD that the "Job-Centered Property Disposal" approach is the appropriate implementation of Pryor Act and the President's five-point plan.

The following discussion is offered in response to these issues and sets the stage for the comments on specific sections of the interim rule:

Transfer of land to local jurisdictions as economic conveyances is in accordance with the President's five-point plan. However, the "Job-Centered Property Disposal" approach to sell to the highest bidder so that the Federal Government can "recoup its losses" is not consistent with the Pryor Act or the President's Plan and ignores the physical, social and economic impacts on the local community by the closure of a military base.

Military bases and local communities have had a symbiotic relationship which is being eliminated by the unfortunate, but necessary base closures. The policy of conveyance to a local redevelopment authority is an attempt to mitigate the loss of a base and turn it into an opportunity, not only for the local community but for the federal taxpayer as well.

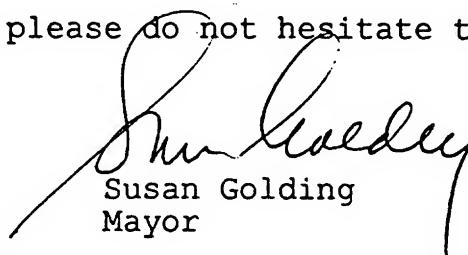
The "Job-Centered Property Disposal" approach does not further the policy objectives articulated by the President and does not really guarantee jobs. In some instances it may be best for a base to not have any direct job generation but rather the reuse of the base used for job training, education or housing could be a major catalyst for indirect job creation.

A "Job-Centered Property Disposal" ignores the Local Reuse Authority and is in direct conflict with the DOD's own guidelines for preparing a reuse plan. The guidelines recommend and indeed mandate a more comprehensive approach to reuse planning in order to best determine how a closed base may best benefit its community. This comprehensive approach to reuse planning has been reinforced by the Federal Government's approval for ISTEA, Empowerment Zones, and Consolidated Planning Strategies as a condition for the receipt of federal funds.

For these reasons the principal recommendation in the comments on the interim rule is that no action by the DOD be taken until after the local redevelopment authority has adopted the local redevelopment plan, and that the "Job-Centered Property Disposal" process only be utilized by DOD if it is consistent with the local redevelopment plan.

We hope that these recommended changes are helpful to you as you consider revisions to the Interim Rule.

If I can be of further assistance, please do not hesitate to contact me.



Susan Golding
Mayor

SG:chr
Attachment

COMMENTS ON THE INTERIM RULE IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #1

Page: 16124

Column: 3

Paragraph: 2

Shaded = Proposed New Language / Strikeout = Proposed Deletion

Recommended Changes: The Military Departments will identify properties having a ready market and begin the appraisal process ~~as soon as possible but not later than~~ after the local redevelopment authority has adopted the local redevelopment plan referenced in paragraph 3. of this summary.

Why: In current form, the Jobs-Centered Property Disposal ("JCPD") process permits DoD to appraise, market and convey the base or a substantial portion of the base to a private party in a manner inconsistent with the local redevelopment plan. This method of surplus real property disposal is **entirely inconsistent** with policy reflected in section 3 of the summary which recognizes that early formation of a local redevelopment authority and the adoption of a comprehensive local redevelopment plan is **"critical to the successful reuse of the base."**

Although pre-existing legal authority may exist which permits DoD to implement the JCPD process, the JCPD process **was not authorized by Congress in the Pryor Act** and in our opinion the JCPD is legally vulnerable and susceptible to legal attack as being contrary to the spirit and intent of Congress in enacting the Pryor Act. The President and Congress have consistently communicated the singular message to local governments that a local reuse planning effort is the most efficient and effective process for disposal of surplus real property at closing bases. We agree with that policy. Without any formal authorization from Congress, NEC and DoD has drastically altered that policy. At the DoD sponsored outreach seminar held in San Francisco on May 13, 1994, it was publicly stated by Mr. Douglas B. Hanson, Director for Base Closure and Utilization with the Office of the Secretary of Defense, that in developing the JCPD process it was decided that utilization of market forces may be the most efficient and effective process for creating jobs and disposing of high value readily marketable bases. We do not necessarily disagree with that concept, however we firmly believe that this new policy **cannot be successfully implemented without the concurrence of local redevelopment authorities** and we seriously question the authority and wisdom of NEC and DoD in creating policy and rules contrary to formal direction authorized by Congress in the Pryor Act.

Name: Mayor Susan Golding, Chair of Naval Training Center Reuse Planning Committee

Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101

Phone: (619) 236-6330

COMMENTS ON THE INTERIM RULE IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #2

Page: 16124

Column: 3

Paragraph: 3

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: The Military Departments will analyze each expression of interest and determine if it is consistent with the local redevelopment plan and represents a reasonable proposal that is likely to lead to rapid development and job creation.

Why: In current form, the Jobs-Centered Property Disposal ("JCPD") process permits DoD to appraise, market and convey the base or a substantial portion of the base to a private party in a manner inconsistent with the local redevelopment plan. This method of surplus real property disposal **entirely inconsistent** with policy reflected in section 3 of the summary recognizing that early formation of a local redevelopment authority and the adoption of a comprehensive local redevelopment plan is **"critical to the successful reuse of the base."**

Although pre-existing legal authority may exist which permits DoD to implement the JCPD process, the JCPD process **was not authorized by Congress in the Pryor Act** and in our opinion the JCPD is legally vulnerable and susceptible to legal attack as being contrary to the spirit and intent of Congress in enacting the Pryor Act. The President and Congress have consistently communicated the singular message to local governments that a local reuse planning effort is the most efficient and effective process for disposal of surplus real property at closing bases. We agree with that policy. Without any formal authorization from Congress, NEC and DoD has drastically altered that policy. At the DoD sponsored outreach seminar held in San Francisco on May 13, 1994, it was publicly stated by Mr. Douglas B. Hanson, Director for Base Closure and Utilization with the Office of the Secretary of Defense, that in developing the JCPD process it was decided that utilization of market forces may be the most efficient and effective process for creating jobs and disposing of high value readily marketable bases. We do not necessarily disagree with that concept, however we firmly believe that this new policy **cannot be successfully implemented without the concurrence of local redevelopment authorities** and we seriously question the authority and wisdom of NEC and DoD in creating policy and rules contrary to formal direction authorized by Congress in the Pryor Act.

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Phone: (619) 236-6330

COMMENTS ON THE INTERIM RULE IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #3

Page: 16124

Column: 3

Paragraph: 3

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: ~~If the Military Department nevertheless decides to proceed with the sale, potential bidders will be strongly encouraged to work with the local redevelopment authority so that their proposals are compatible with the local redevelopment plan.~~

Why: See Comment #1 and Comment #2 which describes a requirement that any Jobs-Centered Property Disposal sale be consistent with the local redevelopment plan. A consistency requirement obviates the need to encourage compatibility between a private development proposal and the local redevelopment plan.

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Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101

Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #4

Page: 16125

Column: 1

Paragraph: New paragraph at top of column

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: Where the citizens of the affected local community conveyed all or a portion of the installation property to the Department of Defense after the year 1900 free of charge or for less than fair market value, a designated DoD Component shall negotiate and formally agree with the local redevelopment authority for an equitable distribution of proceeds from the sale of that portion of the installation being offered for sale.

Why: In current form, the rule presumes that DoD has a legal and equitable entitlement to 100% of the proceeds from a Jobs-Centered Property Disposal ("JCPD"). This was explained at the DoD sponsored outreach seminar held in San Francisco on May 13, 1994 when it was publicly stated by Mr. Douglas B. Hanson, the Director for Base Closure and Utilization with the Office of the Secretary of Defense, that an underlying premise in developing the Jobs-Centered Property Disposal ("JCPD") process was the belief that it would be "unconscionable" to federal taxpayers for DoD to dispose of high-value readily marketable assets free of charge. Mr. Steven N. Kleiman, Deputy Director, Base Closure and Utilization in the Office of the Secretary of Defense, also publicly expressed the same sentiment in one of the outreach seminar breakout sections when he stated "You don't just give your house away."

This position reflects an extreme lack of sensitivity and fundamental fairness toward those local communities which may have originally conveyed base property to DoD free of charge or for less than fair market value for public purposes. DoD appears to be unnecessarily concerned with insulating itself from political criticism or media scrutiny in the disposal of high value assets.

The proposed language contained in this comment promotes the harmonious utilization of the JCPD process and reflects the reality that in all cases DoD may not be legally, equitably or morally entitled to receive all the proceeds from such a sale.

Name: Mayor Susan Golding, Chair of Naval Training Center Reuse Planning Committee
Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101
Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
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NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #5

Page: 16125

Column: 1

Paragraph: 2

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: ~~Throughout this process, the Military Departments will make maximum effort to give community considerations a high priority.~~

Why: See Comment #1 and Comment #2 which describe a requirement that any Jobs-Centered Property Disposal sale be consistent with the local redevelopment plan, a document that will embrace the desire and considerations of the community. This consistency requirement obviates the need for a provision stating that community considerations will be given high priority.

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Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101

Phone: (619) 236-6330

COMMENTS ON THE INTERIM RULE IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #6

Page: 16125

Column: 2

Paragraph: 1

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: When real property is conveyed as described in paragraph 5. of this summary, a designated DoD Component shall ~~generally share in the~~ **negotiate and formally agree with the local redevelopment authority for an equitable division of future profits should the property be subsequently sold or leased.**

Why: In current form, the rule is arbitrary and rigid. The profit sharing concept should be flexible enough to balance the various legal and equitable interests that DoD and the local community may have in the real property being disposed.

The mandated profit sharing formula **reflects an extreme lack of sensitivity and fundamental fairness toward those local communities** which originally conveyed base property to DoD **free of charge or for less than fair market value for public purposes.** DoD appears to be unnecessarily concerned with insulation itself from political criticism or media scrutiny in the disposal of high value assets.

This proposed change would permit DoD and the local redevelopment authority the latitude to negotiate and arrive at a mutually acceptable profit sharing arrangement after consideration of all the relevant factors. DoD appears to be unnecessarily concerned with insulating itself from political criticism and media scrutiny in the disposal of high value assets.

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Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101
Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
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NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #7

Page: 16125

Column: 2

Paragraph: 1

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: ~~The division of profits shall be based on net profits and the share shall generally favor the local redevelopment authority.~~

Why: See Comment #6 which describes a requirement for a designated DoD Component and the local reuse authority to negotiate and formally agree upon an equitable division of future profits should the property be subsequently sold or leased. This requirement obviates the need for DoD to mandate the nature (net versus gross) or share of future profits realized by subsequent sale or lease of base property, thus permitting far greater flexibility to structure an economic development conveyance which balances the legal and equitable interests in the property claimed by DoD and the local community.

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**COMMENTS ON THE INTERIM RULE
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From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #8

Page: 16127

Column: 1

Paragraph: (b)(1)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: (1) Where a ready market exists for a use consistent with the local redevelopment plan, complete screening and then sell properties quickly for public or private development to speed up job creation.

Why: In current form, the Jobs-Centered Property Disposal ("JCPD") process permits DoD to appraise, market and convey the base to a private party in a manner inconsistent with the local redevelopment plan. This method of surplus property disposal is **entirely inconsistent** with DoD's own policy set forth in section §90.4(a) of the interim rule which states that it is DoD's policy to "Help communities impacted by base closures achieve rapid economic recovery through effective reuse of the assets of closing bases-more quickly, more effectively and in ways based on local market conditions and locally developed reuse plans- by implementing the President's Five-Part plan...." (emphasis added).

Although pre-existing legal authority may exist which permits DoD to implement the JCPD process, the JCPD process was **not authorized by Congress in the Pryor Act** and in our opinion the JCPD is legally vulnerable and susceptible to legal attack as being contrary to the spirit and intent of Congress in enacting the Pryor Act. The President and Congress have consistently communicated the singular message to local governments that local reuse planning is the most efficient and effective process for disposal of surplus real property. We agree with that policy. Without any formal authorization from Congress, NEC and DoD has drastically altered that policy. At the DoD sponsored outreach seminar held in San Francisco on May 13, 1994, it was publicly stated by Mr. Douglas B. Hanson, Director for Base Closure and Utilization with the Office of the Secretary of Defense, that in developing the JCPD process it was decided that utilization of market forces may be the most efficient and effective process for creating jobs and disposing of high value readily marketable bases. We do not necessarily disagree with that concept, however we firmly believe that this new policy **cannot be successfully implemented without the concurrence of local redevelopment authorities** and we seriously question the authority and wisdom of NEC and DoD in creating policy and rules contrary to formal direction authorized by Congress in the Pryor Act.

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Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101
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COMMENTS ON THE INTERIM RULE IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #9

Page: 16128

Column: 1

Paragraph: §91.4 (a)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: (a) Selling properties quickly for public or private development to speed up job creation where a ready market exists and, **under certain circumstances, sharing the proceeds from the sale with local redevelopment authorities.**

Why: In current form, the rule presumes that DoD has a legal and equitable entitlement to 100% of the proceeds from a Jobs-Centered Property Disposal ("JCPD"). This was explained at the DoD sponsored outreach seminar held in San Francisco on May 13, 1994 when it was publicly stated by Mr. Douglas B. Hanson, the Director for Base Closure and Utilization with the Office of the Secretary of Defense, that an underlying premise in developing the Jobs-Centered Property Disposal ("JCPD") process was the belief that it would be "unconscionable" to federal taxpayers for DoD to dispose of high-value readily marketable assets free of charge. Mr. Steven N. Kleiman, Deputy Director, Base Closure and Utilization in the Office of the Secretary of Defense, also publicly expressed the same sentiment in one of the outreach seminar breakout sections when he stated "You don't just give your house away."

This position **reflects an extreme lack of sensitivity and fundamental fairness toward those local communities** which may have originally conveyed base property to DoD **free of charge or for less than fair market value for public purposes.** DoD appears to be unnecessarily concerned with insulating itself from political criticism or media scrutiny in the disposal of high value assets.

The proposed language contained in this comment promotes the harmonious utilization of the JCPD process and reflects the reality that in all cases DoD may not be legally, equitably or morally entitled to receive all the proceeds from such a sale.

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**COMMENTS ON THE INTERIM RULE
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From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #10

Page: 16128

Column: 1

Paragraph: §91.4 (c)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: (c) Sharing the ~~net~~ profits between the DoD and the local redevelopment authority if a property conveyed without initial consideration for economic development is subsequently sold or leased.

Why: See Comment #6 which describes a requirement for DoD and the local reuse authority to negotiate and formally agree upon an equitable division of future profits should the property be subsequently sold or leased. This requirement obviates the need for DoD to mandate the nature (net versus gross) or share of future profits realized by subsequent sale or lease of base property, thus permitting far greater flexibility to structure an economic development conveyance which balances the legal and equitable interests in the property claimed by DoD and the local community.

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Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101
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COMMENTS ON THE INTERIM RULE IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #11

Page: 16130

Column: 2

Paragraph: §91.7 (c)(1)

Shaded = Proposed New Language / Strikeout = Proposed Deletion

Recommended Changes: (1) This plan should embrace the range of feasible reuse options that will result in rapid regional economic development and job creation.

Why: The term "job creation" is vague, ambiguous and underinclusive. This sentence could be interpreted as suggesting that the reuse plan should contemplate only those commercial or industrial uses where a high concentration of persons would be employed at the site. Educational, recreational, cultural and public benefit uses can also lead to rapid regional economic development and job creation.

The San Diego Naval Training Center ("NTC") has historically been utilized by the Navy as an education and training facility. Reuse of a portion of the base facilities for educating and training civilians would lead to rapid job creation and regional economic development, even if those persons educated and trained are not subsequently employed at the site.

Tourism is the third largest industry in the City of San Diego contributing millions of dollars per year to the region's economic base. It is possible that jobs could be most rapidly created if portions of NTC are converted to recreational or public benefit uses which attract additional tourists and their dollars to the region.

The presidents five-part plan emphasized job creation through economic redevelopment. The amended language proposed in this comment better reflects that policy goal and is less susceptible to the erroneous and narrow interpretation described above.

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Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101
Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
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NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #12

Page: 16130

Column: 2

Paragraph: §91.7 (d)(1)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: (1) The new property disposal process described in this section and in paragraphs (e) and (f) of this section which follow, is designed to **lead to rapid regional economic development and job creation** ~~rapidly create new jobs~~, either by taking advantage of a ready market for development of valuable property or by inducing a market through conveyances without consideration.

Why: The phrase "rapidly create new jobs" is vague, ambiguous and underinclusive. This sentence could be interpreted as suggesting that a Jobs-Centered Property Disposal ("JCPD") may be appropriate only for commercial or industrial uses where a high concentration of persons would be employed at the site. Educational, recreational, cultural and public benefit uses can also lead to rapid regional economic development and job creation.

The San Diego Naval Training Center ("NTC") has historically been utilized by the Navy as an education and training facility. Reuse of a portion of the base facilities for educating and training civilians would lead to rapid job creation and regional economic development, even if those persons educated and trained are not subsequently employed at the site.

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The presidents five-part plan emphasized **job creation through economic redevelopment**. The amended language proposed in this comment better reflects that policy goal and is less susceptible to the erroneous and narrow interpretation described above.

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Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101

Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
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From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #13

Page: 16130

Column: 3

Paragraph: §91.7 (d)(2)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: (2) The Military Departments ~~should~~ **shall consult with the local redevelopment authority to mutually identify and agree upon suitable properties or suitable portions of properties with potential for private sector development which will lead to rapid economic development and job creation and begin, as soon as possible, but not later than completion of the new expedited McKinney Act screening (paragraph (b) of this section), an appraisal or other estimate of the property's fair market value.**

Why: In current form, the Jobs-Centered Property Disposal ("JCPD") process permits DoD to appraise, market and convey the base to a private party in a manner inconsistent with the local redevelopment plan. This method of surplus property disposal is **entirely inconsistent** with DoD's own policy set forth in section §90.4(a) of the interim rule which states that it is DoD's policy to "Help communities impacted by base closures achieve rapid economic recovery through effective reuse of the assets of closing bases-more quickly, more effectively and in ways based on local market conditions and locally developed reuse plans- by implementing the President's Five-Part plan...." (emphasis added).

I has been explained to us that in developing the JCPD process it was decided that utilization of market forces may be the most efficient and effective process for creating jobs and disposing of high value readily marketable bases. We do not necessarily disagree with that concept, however we firmly believe that this new policy **cannot be successfully implemented without the concurrence of local redevelopment authorities.**

The proposed language contained in this comment promotes the harmonious utilization of the JCPD process by assuring that it will be used only in those circumstances when the Military Department and the local reuse authority are in agreement that it is the the most effective and desirable process for disposing of the surplus real property.

Additionally, this proposed language expands the JCPD process to allow it to be utilized for select portions of base where the Military Department and the local reuse authority agree that it is the most effective and desirable process for disposal of a portion of the base.

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**COMMENTS ON THE INTERIM RULE
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From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #14

Page: 16130

Column: 3

Paragraph: §91.7 (d)(2) (New sentence to be inserted after sentence proposed in Comment #13)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: After identification of property potentially suitable for private sector development, the Military Departments shall begin, as soon as possible, but not later than completion of the new expedited McKinney Act Screening (paragraph (b) of this section), an appraisal or other estimate of the property's fair market value.

Why: See Comment #13. Breaks up a complex sentence.

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Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101

Phone: (619) 236-6330

COMMENTS ON THE INTERIM RULE IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #15

Page: 16130

Column: 3

Paragraph: §91.7 (d)(2)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: Such appraisals or estimates should address a range of likely market values taking into account: feasible uses and limitations for the property identified in the local redevelopment plan; the uncertainties in property development; and, current market conditions (i.e., recognizing the state of the market after a closure announcement).

Why: In current form, the Jobs-Centered Property Disposal ("JCPD") process permits DoD to appraise, market and convey the base to a private party in a manner inconsistent with the local redevelopment plan. This method of surplus property disposal is **entirely inconsistent** with DoD's own policy set forth in section §90.4(a) of the interim rule which states that it is DoD's policy to "Help communities impacted by base closures achieve rapid economic recovery through effective reuse of the assets of closing bases-more quickly, more effectively and in ways **based on local market conditions and locally developed reuse plans-** by implementing the President's Five-Part plan...." (emphasis added).

It was explained to us at the San Francisco outreach seminar that when NEC and DoD developed the JCPD process it was decided that utilization of market forces may be the most efficient and effective process for creating jobs and disposing of high value readily marketable bases. We do not necessarily disagree with that concept, however we firmly believe that this new policy **cannot be successfully implemented without the concurrence of local redevelopment authorities.**

The proposed language contained in this comment would serve to promote the harmonious utilization of the Jobs-Centered Property Disposal ("JCPD") process by assuring that it will be used only in those circumstances when the Military Department and the local redevelopment authority are in agreement that it is the most effective and desirable process for disposal of the surplus real property.

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COMMENTS ON THE INTERIM RULE IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #16

Page: 16130

Column: 3

Paragraph: §91.7 (d)(2)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: Additionally, the appraisal should not be based on the highest and best use, but the ~~most likely~~ range of uses ~~consistent with local interests~~ identified for the property in the local redevelopment plan.

Why: In current form, the Jobs-Centered Property Disposal ("JCPD") process permits DoD to appraise, market and convey the base to a private party in a manner inconsistent with the local redevelopment plan. This method of surplus property disposal is **entirely inconsistent** with DoD's own policy set forth in section §90.4(a) of the interim rule which states that it is DoD's policy to "Help communities impacted by base closures achieve rapid economic recovery through effective reuse of the assets of closing bases-more quickly, more effectively and in ways **based on local market conditions and locally developed reuse plans-** by implementing the President's Five-Part plan...." (emphasis added).

It was explained to us at the San Francisco outreach seminar that in developing the JCPD process it was decided that utilization of market forces may be the most efficient and effective process for creating jobs and disposing of high value readily marketable bases. We do not necessarily disagree with that concept, however we firmly believe that this new policy **cannot be successfully implemented without the concurrence of local redevelopment authorities.**

The proposed language contained in this comment would serve to promote the harmonious utilization of the Jobs-Centered Property Disposal ("JCPD") process by assuring that it will be used only in those circumstances when the Military Department and the local redevelopment authority are in agreement that it is the most effective and desirable process for disposal of the surplus real property.

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**COMMENTS ON THE INTERIM RULE
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From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #17

Page: 16130

Column: 3

Paragraph: §91.7 (d)(3)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: (3) To assist in the appraisal/estimation of fair market value of those properties ~~with a~~ or portions of properties identified by the Military Department and the local reuse authority to have potential for rapid private sector economic development and job creation, ~~and to determine if interests exist in properties not originally identified for rapid job creation;~~ the Military Departments shall, for 1993 and 1995 closures, advertise for expressions of private sector development interest ~~in all or any substantial part of each closing installation.~~

Why: See Comments #13, #14 and #15.

The proposed language contained in this comment would serve to promote the harmonious utilization of the Jobs-Centered Property Disposal ("JCPD") process by assuring that it will be used only in those circumstances when the Military Department and the local redevelopment authority are in agreement that it is the most effective and desirable process for disposal of the surplus real property.

Additionally, this proposed language expands the JCPD process to allow it to be utilized for select portions of base where the Military Department and the local reuse authority agree that it is the most effective and desirable process for disposal of a portion of the base.

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Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
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From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #18

Page: 16130

Column: 3

Paragraph: §91.7 (d)(3)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: The Military Departments, with the concurrence of the local reuse authority, may advertise for expressions of private sector development interests in all or any ~~substantial~~ part of each closing installation on the 1988 or 1991 closure lists if it is determined that it would be beneficial to do so and will not delay the disposal process.

Why: See Comment #17.

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Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
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From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #19

Page: 16130

Column: 3

Paragraph: §91.7 (d)(3)(ii)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: The Military Departments and the local reuse authority shall jointly analyze each expression of interest and determine within 30 days of receipt if it is made in good faith and represents a reasonable development proposal.

Why: It was explained to us at the San Francisco outreach seminar that when NEC and DoD developed the JCPD process it was decided that utilization of market forces may be the most efficient and effective process for creating jobs and disposing of high value readily marketable bases. We do not necessarily disagree with that concept, however we firmly believe that this new policy **cannot be successfully implemented without the input and concurrence of local redevelopment authorities.**

The proposed language contained in this comment would serve to promote the harmonious utilization of the Jobs-Centered Property Disposal ("JCPD") process by assuring that it will be used only in those circumstances when the Military Department and the local redevelopment authority are in agreement that it is the most effective and desirable process for disposal of the surplus real property.

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COMMENTS ON THE INTERIM RULE IMPLEMENTING TITLE XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #20

Page: 16131

Column: 1

Paragraph: §91.7 (d)(3)(ii)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: If the Military Department and the local reuse authority jointly decides that an expression of interest received demonstrates the existence of a ready market, the prospect of job creation, and offers proceeds consistent with the range of estimated fair market value, ~~it~~ the Military Department may decide to commence negotiations with the local redevelopment authority to share the proceeds of the sale, if required pursuant to paragraph (d)(3)(iii) below, or offer the property for sale if paragraph (d)(3)(iii) is not applicable.

Why: See Comment #19. In current form, the rule presumes that DoD has a legal and equitable entitlement to 100% of the proceeds from a Jobs-Centered Property Disposal ("JCPD"). This position reflects an extreme lack of sensitivity and fundamental fairness toward those local communities which may have originally conveyed base property to DoD free of charge or for less than fair market value for public purposes. DoD appears to be unnecessarily concerned with insulating itself from political criticism or media scrutiny in the disposal of high value assets.

The proposed language contained in this comment promotes the harmonious utilization of the JCPD process and reflects the reality that in all cases DoD may not be legally, equitably or morally entitled to receive all the proceeds from such a sale.

Name: Mayor Susan Golding, Chair of Naval Training Center Reuse Planning Committee
Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101
Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #21

Page: 16131

Column: 1

Paragraph: §91.7 (d)(3)(ii)

Shaded = Proposed New Language / Strikeout = Proposed Deletion

Recommended Changes: ~~The property proposed for sale shall be publicly identified, and the redevelopment authority shall be notified. The redevelopment authority may request reconsideration of this decision under paragraph (d)(5) of this section. Potential offerors will be encouraged to work with the redevelopment authority so that their development goals will be compatible with the local redevelopment plan.~~

Why: See Comments #17, #18, #19 and #20 which describe a requirement that any Jobs-Centered Property Disposal ("JCPD") sale be consistent with the local redevelopment plan and jointly agreed upon by the Military Department and the local redevelopment authority. This requirement of joint decision making obviates the need to require notification and cooperation with the local redevelopment authority.

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**COMMENTS ON THE INTERIM RULE
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From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #22

Page: 16131

Column: 1

Paragraph: §91.7 (d)(3)(iii)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: (iii) In those cases where after the year 1900 the citizens of the affected local community conveyed all or a portion of the installation property to the Department of Defense free of charge or for less than fair market value, the Military Department shall negotiate and formally agree with the local redevelopment authority for an equitable distribution of proceeds from the sale of that portion of the installation being offered for sale under this section.

Why: In current form, the rule presumes that DoD has a legal and equitable entitlement to 100% of the proceeds from a Jobs-Centered Property Disposal ("JCPD"). This position reflects an extreme lack of sensitivity and fundamental fairness toward those local communities which may have originally conveyed base property to DoD free of charge or for less than fair market value for public purposes. DoD appears to be unnecessarily concerned with insulating itself from political criticism or media scrutiny in the disposal of high value assets.

The proposed language contained in this comment promotes the harmonious utilization of the JCPD process and reflects the reality that in all cases DoD may not be legally, equitably or morally entitled to receive all the proceeds from such a sale.

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Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
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From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #23

Page: 16131

Column: 1

Paragraph: §91.7 (d)(3)(iv)

Shaded = Proposed New Language / Strikeout = Proposed Deletion

Recommended Changes: (iv) ~~If a redevelopment plan has not been completed, the redevelopment authority will be encouraged to include the potential for sale of the property identified by the Military Department under paragraph (d)(3) of this section, in the plan.~~ The DoD Component will evaluate whether the potential sale of the identified property is covered by any ongoing environmental analyses required by the National Environmental Policy Act (NEPA). Based on this evaluation, consideration can be given to integrating the potential sale into the existing analyses or preparing additional analyses required by law or otherwise deemed appropriate. The environmental impact statement shall, to the extent practicable, be completed within 12 months, or a Finding of No Significant Impact issued within 6 months, of the public announcement identifying the property proposed for sale.

Why: See Comments #17, #18, #19 and #20 which describe a requirement that any Jobs-Centered Property Disposal ("JCPD") sale be consistent with the local redevelopment plan and jointly agreed upon by the Military Department and the local redevelopment authority. This requirement of joint decision making obviates the need to require notification and cooperation with the local redevelopment authority.

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**COMMENTS ON THE INTERIM RULE
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NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #24

Page: 16131

Column: 1

Paragraph: §91.7 (d)(4)

Shaded = Proposed New Language / Strikeout = Proposed Deletion

Recommended Changes: ~~(4) few high value installations for which a ready market apparently exists may, nevertheless, not have generated any expressions of interest during the allotted 6 month period. Regardless, such installations provide an opportunity for private sector rapid job creation which should be pursued. In these cases, the Military Departments, based on completed appraisals or other estimates of the fair market value, shall inform redevelopment authorities that the property is expected to be offered for sale and an economic development conveyance should not be anticipated. Redevelopment authorities shall be so informed as soon as possible, but not later than 6 months after completion of the McKinney Act screening process. In making these determinations, airport, port, and school property may be excluded if it appears that they are likely to be converted to public airports, ports or schools under existing public benefit conveyance programs. The determination that an installation will be sold under paragraph (d)(4) of this section has 2 components:~~

- ~~_____ (i) The property must have a high value.~~
- ~~_____ (ii) There must be a ready market.~~

~~Ready market means that offers to purchase at or near the estimated range of fair market value from the private sector covering all or most of the installation could be expected within 6 months of advertising the base for public sale.~~

Why: See Comments #13 through #19. This provision is redundant and unnecessary if the local redevelopment authority and the designated DoD Component consult, agree and cooperate in the marketing of any installation or portion of the installation which is targeted for a Jobs-Centered Property Disposal ("JCPD") sale.

Further, the criteria set forth in section (d)(4)(i) and (d)(4)(ii) is inconsistent with other provisions of the rule describing the character of installations appropriate for JCPD. Section (d)(4)(i) and (d)(4)(ii) contain no reference to the required nexus between a JCPD disposal and job creation.

Name: Mayor Susan Golding, Chair of Naval Training Center Reuse Planning Committee
Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101
Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #25

Page: 16131

Column: 2

Paragraph: §91.7 (d)(5)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: ~~(5) Within 60 days of the announcement by the Secretary of the Military Department concerned of the intention to sell property in accordance with paragraph (d)(3) or (d)(4) of this section, the authorized local redevelopment authority may request, in writing, that this determination be reconsidered. The Secretary shall consider the request, provide a final determination in writing to the local redevelopment authority and announce this determination publicly.~~

Why: See Comments #13 through #19. This provision is unnecessary if the local redevelopment authority and the Military Department consult, agree and cooperate in the marketing of any installation or portion of the installation which is targeted for a Jobs-Centered Property Disposal ("JCPD") sale.

Name: Mayor Susan Golding, Chair of Naval Training Center Reuse Planning Committee

Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101

Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #26

Page: 16131

Column: 2

Paragraph: §91.7 (d)(6)

Shaded = Proposed New Language / Strikeout = Proposed Deletion

Recommended Changes: ~~(6) Identification of an installation or property for sale under this section does not preclude a community's acquisition of property for the estimated fair market value.~~

Why: This provision is vague and confusing. It should be deleted or clarified. The purpose for this section is unclear. Does reference to the "community" mean the local redevelopment authority or the local government having jurisdiction over the property or does it mean a group of private citizens? At a minimum, the meaning of the term "community" must be defined.

Name: Mayor Susan Golding, Chair of Naval Training Center Reuse Planning Committee
Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101
Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #27

Page: 16131

Column: 2

Paragraph: §91.7 (d)(7)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: (74) The provisions of this section may not be appropriate for some of the 1988 and 1991 base closures and realignments because these bases are so far along in the property disposal process that certain actions have been taken or agreed to that are inconsistent with the new procedures. In cases of 1988 and 1991 closures where this new property disposal process is considered not appropriate, the Secretary concerned shall request a waiver from the ASD(ES) before proceeding with the disposition of the property.

Why: Consistency with proposed changes contained in Comments #24 through #26.

Name: Mayor Susan Golding, Chair of Naval Training Center Reuse Planning Committee

Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101

Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #28

Page: 16131

Column: 3

Paragraph: §91.7 (e)(1)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: (1) The new process that follows permits the DoD to convey land and buildings to redevelopment authorities with no consideration, subject to recoupment via a negotiated profit sharing agreement, after it is determined that the base, or significant portions thereof, cannot be sold in accordance with the rapid job creation concept. Such conveyances may help induce a market for the property, thereby, enhancing economic recovery. Redevelopment authorities shall submit a simple written request containing four basic elements as described in paragraphs (e)(5)(i) through (e)(5)(iv) of this section. Generally, installations will be conveyed at no initial cost with a negotiated recoupment provision that shall permit DoD to share in any future profits should the base be later leased or sold. Bases in rural areas shall be conveyed under this authority with no recoupment if they meet the standards in paragraph (e)(6) of this section.

Why: In current form, the rule is arbitrary and rigid. The profit sharing concept should be flexible enough to balance the various legal and equitable interests that DoD and the local community may have in the real property being disposed.

The mandated profit sharing formula **reflects an extreme lack of sensitivity and fundamental fairness toward those local communities** which originally conveyed base property to DoD free of charge or for less than fair market value for public purposes. DoD appears to be unnecessarily concerned with insulation itself from political criticism or media scrutiny in the disposal of high value assets.

This proposed change would permit DoD and the local redevelopment authority the latitude to negotiate and arrive at a mutually acceptable profit sharing arrangement after consideration of all the relevant factors. It appears that DoD is unnecessarily concerned with insulating itself from political criticism and media scrutiny in the disposal of high value assets.

Name: Mayor Susan Golding, Chair of Naval Training Center Reuse Planning Committee
Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101
Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #29

Page: 16132

Column: 1

Paragraph: §91.7 (e)(5)(v)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: (v) A proposal for the equitable division of future profits with DoD should the property be subsequently sold or leased.

Why: In current form, the rule is arbitrary and rigid. The profit sharing concept should be flexible enough to balance the various legal and equitable interests that DoD and the local community may have in the real property being disposed.

The mandated profit sharing formula **reflects an extreme lack of sensitivity and fundamental fairness toward those local communities** which originally conveyed base property to DoD **free of charge or for less than fair market value for public purposes.** DoD appears to be unnecessarily concerned with insulation itself from political criticism or media scrutiny in the disposal of high value assets.

This proposed change would permit DoD and the local redevelopment authority the latitude to negotiate and arrive at a mutually acceptable profit sharing arrangement after consideration of all the relevant factors. It appears that DoD is unnecessarily concerned with insulating itself from political criticism and media scrutiny in the disposal of high value assets.

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Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #30

Page: 16132

Column: 2

Paragraph: §91.7 (f)(1)

Shaded = Proposed New Language / Strikeout = Proposed Deletion

Recommended Changes: (1) When real property is conveyed as described in paragraph (e) of this section, the Department of Defense shall generally share in the division of future profits should the property be subsequently sold or leased. ~~The division of profits shall be based on net profits and the share shall generally favor the local redevelopment authority.~~ A designated DoD Component shall negotiate and formally agree with the local redevelopment authority for an equitable division of future profits should the property be subsequently sold or leased. There shall be a 15-year time limit on the share of the profits. The government's portion of the receipts from the profit shall not exceed the fair market value of the property at the time it was conveyed to the local redevelopment authority.

Why: In current form, the rule is arbitrary and rigid. The profit sharing concept should be flexible enough to balance the various legal and equitable interests that DoD and the local community may have in the real property being disposed.

The mandated profit sharing formula **reflects an extreme lack of sensitivity and fundamental fairness toward those local communities** which originally conveyed base property to DoD **free of charge or for less than fair market value for public purposes.** DoD appears to be unnecessarily concerned with insulation itself from political criticism or media scrutiny in the disposal of high value assets.

This proposed change would permit DoD and the local redevelopment authority the latitude to negotiate and arrive at a mutually acceptable profit sharing arrangement after consideration of all the relevant factors. DoD appears to be unnecessarily concerned with insulating itself from political criticism and media scrutiny in the disposal of high value assets.

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Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #31

Page: 16132

Column: 2

Paragraph: §91.7 (f)(2)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: ~~In the absence of a determination by the Secretary of the Military Department concerned that a different division of the net profits is appropriate because of special circumstances, the net profits shall be shared on a basis of 60 percent to the local redevelopment authority and 40 percent to the Department of Defense.~~

Why: This provision is obviated by the proposed changes specified in Comment #30.

Name: Mayor Susan Golding, Chair of Naval Training Center Reuse Planning Committee
Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101
Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #32

Page: 16132

Column: 2

Paragraph: §91.7 (f)(2)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: Sharing the profits, when they occur, will provide a return to the taxpayers for the property they may have originally paid for or improved, without unduly burdening the community.

Why: In current form, the rule is arbitrary and rigid. The profit sharing concept should be flexible enough to balance the various legal and equitable interests that DoD and the local community may have in the real property being disposed.

The mandated profit sharing formula **reflects an extreme lack of sensitivity and fundamental fairness toward those local communities** which originally conveyed base property to DoD **free of charge or for less than fair market value for public purposes**. DoD appears to be unnecessarily concerned with insulation itself from political criticism or media scrutiny in the disposal of high value assets.

This proposed change would permit DoD and the local redevelopment authority the latitude to negotiate and arrive at a mutually acceptable profit sharing arrangement after consideration of all the relevant factors. It appears that DoD is unnecessarily concerned with insulating itself from political criticism and media scrutiny in the disposal of high value assets.

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Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101

Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #33

Page: 16132

Column: 3

Paragraph: §91.7 (f)(4)(i)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: (i) The deed provision will express the profit sharing established under paragraph (f)(2) of this section, ~~unless explicitly modified by the Secretary of the Military Department concerned.~~

Why: The proposed change specified in Comment #30 obviates the need for this clause.

Name: Mayor Susan Golding, Chair of Naval Training Center Reuse Planning Committee

Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101

Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #34

Page: 16132

Column: 3

Paragraph: §91.7 (f)(4)(ii)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: (ii) The term of this deed provision in economic development conveyances will be 15 years unless released earlier by the government upon satisfaction of ~~the~~ **any** recoupment ~~requirement~~ **agreement**. The disposing Military Department will provide a statement, for use at any settlement, on the local redevelopment authority's compliance with the deed provision. The Military Department will formally release the provision when the government has received its share of the ~~sale-proceeds~~ **profits pursuant to the recoupment agreement**.

Why: Consistency with the proposed change specified in Comment #30.

Name: Mayor Susan Golding, Chair of Naval Training Center Reuse Planning Committee

Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101

Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
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NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #35

Page: 16132

Column: 3

Paragraph: §91.7 (f)(4)(iii)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: (iii) The deed provision will forbid "straw" transactions (sales or leases to a cooperating party at a nominal price), transactions at other than arm's length, and other devices designed to circumvent the Government's recovery of its share of ~~the net~~ any profits committed and owed pursuant to a recoupment agreement. The purpose of this clause of the deed provision is to provide a basis for the government to intervene if it appears that a transaction may adversely affect its interests.

Why: Consistency with the proposed change specified in Comment #30.

Name: Mayor Susan Golding, Chair of Naval Training Center Reuse Planning Committee

Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101

Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #36

Page: 16132

Column: 3

Paragraph: §91.7 (f)(4)(iv)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: (iv) In ~~calculating~~ negotiating a recoupment agreement and stipulating to the calculated amount of any ~~net~~ profit from a sale or lease, the local redevelopment authority and the designated DoD Component may include: (A) Capital costs, as provided in 41 CFR 101-47.4908(b). (B) Direct and indirect costs related to the particular property and transaction that are otherwise allowable under 48 CFR part 31 including the allocable costs of operation of the local redevelopment authority with regard to that property.

Why: Consistency with the proposed change specified in Comment #30.

Name: Mayor Susan Golding, Chair of Naval Training Center Reuse Planning Committee

Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101

Phone: (619) 236-6330

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY94**

From: San Diego Naval Training Center Reuse Planning Committee

COMMENT #37

Page: 16132

Column: 3

Paragraph: §91.7 (f)(4)(v)

Shaded = Proposed New Language / ~~Strikeout~~ = Proposed Deletion

Recommended Changes: (v) The annual report required by the GSA provision will be deleted, and a clause requiring notification to the disposing Military Department of sales or leases will be substituted. The notice of sale or lease will be accompanied by an accounting or financial analysis indicating the ~~net~~ profit, if any, from a sale, or the estimated annual profit from a lease. The accounting or financial analysis, and any other aspect of a transaction by the local redevelopment authority with respect to property transferred under this part, is subject to Department of Defense audit.

Why: Consistency with the proposed change specified in Comment #30.

Name: Mayor Susan Golding, Chair of Naval Training Center Reuse Planning Committee

Address: City Administration Building, Eleventh Floor, 202 C Street, San Diego, CA 92101

Phone: (619) 236-6330



Office of the City Council

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BRAC

City of Tustin

June 29, 1994

300 Centennial Way
Tustin, CA 92680
(714) 573-3010
FAX (714) 832-0825

Mr. Joshua Gotbaum
Office of the Assistant Secretary of Defense
for Economic Security
The Pentagon, Room 3D814
Washington, D.C. 20301-3300

Thomas R. Saltarelli
Mayor

**SUBJECT: COMMENTS ON INTERIM RULES IMPLEMENTING TITLE
XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT
FOR 1994**

Jim Potts
Mayor Pro Tem

Mike Doyle
Councilmember

Jeffery M. Thomas
Councilmember

Tracy A. Worley
Councilmember

Dear Mr. Gotbaum:

Attached are the City of Tustin's comments on the Interim Department of Defense final rules for revitalizing base communities and community assistance published in the Federal Register on April 6, 1994. The City of Tustin is the reuse authority for the MCAS, Tustin closure in California.

The City would strongly recommend that there be an opportunity to review any additional Department of Defense changes to the proposed rules prior to their being finalized. If there are any questions, please contact Christine Shingleton of my staff at (714) 573-3107.

Sincerely,

Thomas R. Saltarelli

Thomas R. Saltarelli
Mayor
Chairman Base Closure Task Force

TS:CAS:kbc\gotbaum.ltr

cc: George Schlossberg
Peter Hersh, City of Irvine
Ben Williams, OPR
NAID
Colonel Richie, BRAC Office

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16127

Column 3

Paragraph 91.3 e

Recommended Changes/Comment:

Delete second sentence

Why:

Provisions in paragraph 91.6 and 91.7 describe in specific detail the delegation of authority and screening procedures

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 1

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16127

Column 1

Paragraph 90.4 (6) (1) through (3)

Recommended Changes/Comment:

Eliminate entire section

Why:

Title XXV makes no reference to the concept of a "ready market". There is a significant flaw in the assumption that forced early or rapid sale of property will mean rapid job creation.

Once a reuse plan is supported by the community, with information available on what actual critical development entitlements are authorized, the local redevelopment authorities have a proven track record on knowing how to create jobs. Rules should acknowledge this experience and permit transfer of property to a redevelopment authority, no matter what the locational market factors are with agreements for profit sharing with the federal government.

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 2

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16127

Column 3

Paragraph 91.3

Recommended Changes/Comment:

Add a new definition for "Fair Market Value"

"Fair market value is the most probable price that a property should bring in its current "as is, where is" condition based on current local zoning and its planned reuse (adjusted for the offsetting cost of public infrastructure to support the planned reuse including abatement of asbestos, lead paint and other hazards) in a competitive and open market. The effect of the base closure on the market shall be taken into account in estimating fair market value.

Why:

There is a need for a common definition of "fair market value"

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 3

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16128

Column 1

Paragraph 91.4 (a) (b)

Recommended Changes/Comment:

Delete the following:

- (a) ~~... "where a ready market exists~~
- (b) ~~... "where a ready market does not exist~~

Why:

Title XXIV makes no reference to "ready markets". As noted in Comment No. 1 rapid sale of property will not necessarily mean immediate job creation.

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 4

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16128

Column 2

Paragraph 91.7 (a) (5)

Recommended Changes/Comment:

91.7 (a) (5) - States that "agencies sponsoring public benefit conveyances should also consider suitability" at the same time that federal and DoD screening interests are considered by the Department of Defense. This particular section needs to be clarified to more clearly define sponsoring agencies. Most agencies sponsoring public agencies are not aware that they should be responding in a timely manner.

Why:

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 5

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16128
Column 3
Paragraph 91.7 (a) (5)

Recommended Changes/Comment:

Delete Sentence 4 of this paragraph:

~~"Requests for transfers of property submitted by other federal agencies will normally be accommodated."~~

Why:

Decision on transfers to other federal agencies should be made in consultation with the local reuse authority with no preconceived direction that such request would "normally be accommodated".

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 6

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, MCAS, Tustin

Page 16128

Column 3

Paragraph 91.7 (a) 7

Recommended Changes/Comment:

Add a second sentence to this paragraph to read:

"In making such a termination, the military department shall take into consideration the cumulative impact of multiple screening requests and determine that the request will not jeopardize the viability of a local reuse plan"

Why:

An essential foundation of a truly successful transition from military to civilian use must be weighted toward local community economic and local land use issues. Approval of a federal agency screening request could render community redevelopment financially infeasible, adversely impact the reuse of the balance of the property and economic recovery of those portions of a community surrounding a base.

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 7

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16128

Column 2

Paragraph 91. (b) (3) Paragraph 1

Recommended Changes/Comment:

Revise this paragraph to read as follows:

- (3) "Military departments shall seek local redevelopment authority input in making determinations on the retention of property and shall consider their input, if provided. Transfer of real property at closing and realigning bases between any of the military departments or retention of real property at a closing base by a military department, must be first approved by the Assistant Secretary of Defense for economic security, unless such a transfer has already been approved by the Secretary of the Military Department."

Why:

There have been cases where transfer of property and retention of property by DOD agencies other than the closing base, has been found to be inconsistent with a community's Reuse Plan, potentially jeopardizing the viability of a proposed reuse plan. An essential foundation for a truly successful transition from military to civilian use must be weighted toward local community economic and land use compatibility issues, which the redevelopment authority knows best.

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 8

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16129

Column 3

Paragraph 91.7 (a) (6)

Recommended Changes/Comment:

Add language to this paragraph to read:

"Military Departments shall make notices of availability available to local redevelopment authorities, state and local governments."

Why:

Communities are not receiving notices of availability automatically or in a timely manner when they are sent out by Military Departments.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 9

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16129

Column 1

Paragraph 91.7 (b) (1)

Recommended Changes/Comment:

Revise line 8 from the bottom to read as follows:

...plans that fully accommodate homeless needs

Why:

There could be considerable debate over what constitutes "fully" accommodating. For example, if a local homeless group determines that there are 15,000 homeless individuals in the County that a military installation is located in, does a community reuse plan need to fully accommodate this need or a reasonable, "fair share" allocation. With the conflicts over the McKinney Act developing nationwide, there is no reason to put additional fuel on the fire, if not necessary.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680
Contact Phone: (714) 573-3107

Comment No. 10

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16129

Column 3

Paragraph 91.7 (b) (5)

Recommended Changes/Comment:

Revise second to the last sentence in this paragraph to read:

If a provider indicates an interest in a listed property, it shall have an additional 90 days after submission of its written notice of interest to submit a formal application to HHS, a period which HHS can extend for not to exceed 30 days.

Why:

In outreach seminars, HHS is representing that they can grant multiple extensions with no closure date. This will have a detrimental impact on reuse planning efforts and the completion of screening in a timely manner.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680
Contact Phone: (714) 573-3107

Comment No. 11

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16130
Column 2
Paragraph 91.7 (b) (11)

Recommended Changes/Comment:

CHANGE the paragraph as follows:

"If the local redevelopment authority does not express in writing its interest in ~~a specific property~~ incorporating the property into its reuse plan..."

Why:

Previous references (paragraphs 7 and 9) state that the redevelopment authority needs only to express interest in incorporating the property into its reuse plan to exempt it from further McKinney Act screening. This paragraph implies a much higher standard -- characterization of specific properties. It might be concluded that this would require itemization of building numbers or descriptions of precise properties and uses. A more general description of areas to be excluded from McKinney Act review because of incompatibility of planned uses with homeless assistance should be the standard for exemption from further screening.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 12

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16130
Column 2
Paragraph 91.7 (c) (1)

Recommended Changes/Comment:

Fourth sentence in this paragraph should be revised to read as follows:

"...The local redevelopment plan shall ~~will~~ ~~generally~~ be used as the proposed action in conducting environmental analysis required by the National Environmental Policy Act."

Why:

The community's Reuse Plan should be the preferred alternative in the EIS.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680
Contact Phone: (714) 573-3107

Comment No. 13

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16130

Column 2

Paragraph 91.7 (c) (1)

Recommended Changes/Comment:

Third sentence in this paragraph should be revised to read as follows:

"...This plan should embrace ~~the range of~~ feasible reuse options that will result in rapid job creation..."

Why:

The purpose of the reuse plan is to identify the best possible base reuses that are acceptable to the community. Presenting a range of feasible options is the responsibility of the EIS, not the community plan. For example, Subparagraphs (2)(i) and (2)(ii) below, consistent with this interpretation, require the local plan to include only the federal and public benefit conveyance transfers recommended by the local redevelopment authority and would not require the plan to include transfers that are opposed by the community. Requiring the plan to include a range of feasible uses is not consistent with this end.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16130-16131

Column 2 (16130) - 2 (16131)

Paragraph 91.7 (d) (entire section)

Recommended Changes/Comment:

Delete this entire section

Why:

The procedure outlined in this section does not respond to any provisions of the Pryor Amendment and is contrary to the President's Five-Point Plan, which emphasizes low cost and no cost transfers of property to community reuse organizations for economic development purposes. The Five Point Plan repeatedly affirms the paramount position of the community development plan for reuse of base facilities. This section could place the community development plan at odds with disposal actions by the Department of Defense. It prescribes a process which operates in advance of and outside the community reuse process. DOD should require property disposals that are nly based on a reuse plan.

There is a fallacy in the assumption used to draft this section that rapid sale will mean rapid reuse or job creation.

Any consideration of market value without taking into account the community Reuse Plan, infrastructure costs and potential public benefit conveyances will result in an unrealistically high market appraisal/land prices resulting in the property not being able to meet federal expectations in terms of sales revenue and resulting in the property not being quickly reused.

We believe that the goals of rapid job creation and economic development can only occur if land use entitlement can be applied to the property and unless the market constraints mentioned above are recognized and accommodated.

Any military decision to offer property for sale after receiving an expression of interest could:

1. Result in a potential for a lengthy adversarial relationship or conflict between the new owner and reuse authority while there are contradictory visions for the base's reuse.
2. Result in private entity false expectations for a property including possible overpayment due to failure to fully understand the infrastructure and other costs associated with development of the property. A community may not wish to entitle development or a new owner may not have resources available to provide adequate infrastructure which could grind any reuse to a halt.
3. Could affect the economic viability of the Reuse Plan if proposed uses are not acceptable to military department and do not generate adequate revenues to offset municipal services costs.
4. Could delay or invalidate the NEPA process underway on a Reuse Plan if purchaser's intended use has not been accommodated within the NEPA document and evaluated by the military prior to closure and disposal. "Private sector rapid job creation" would be best accomplished through the military's recognition and support of the local community's Reuse Plan for the closing base.

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16131
Column 3
Paragraph 91.7 (e) (1)

Recommended Changes/Comment:

Delete last two sentences

Why:

Just because there is an economic development conveyance requested does not mean that property will necessarily have a high enough value to offset maintenance and marketing costs.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 16

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16131

Column 2

Paragraph 91.7 (e) (1)

Recommended Changes/Comment:

Modify the top 5 lines as follows:

~~...subject to recoupment, often it is determined that the base, or significant portions thereof cannot be sold in accordance with the rapid job creation concept.~~

Why:

This section assumes the whole "ready market" process which is not supported by the City. If there is recoupment and value established, we believe redevelopment authorities should have the ability to request economic development conveyances without having to first go through the job-centered property disposal process.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 17

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16131

Column 3

Paragraph 91.7 (e) (4)

Recommended Changes/Comment:

The term "fair market value" should be more fully defined to be the estimated NET market value of the property after taking into account the proposed reuse and the fair share of all infrastructure, utility system, and other essential upgrades to the property, including abatement of asbestos, lead paint, and other hazards. It should also recognize the devaluation to the property from the stigma and potential ongoing liability from the presence of hazardous substances on the property.

Why:

Failure to recognize these conditions of the property, which may be ignored in a standard appraisal, establishes an artificially high baseline for future negotiations.

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 18

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page _____
Column _____
Paragraph 91.7 (e)

Recommended Changes/Comment:

Why:

We believe that an economic development conveyance and all other public benefit conveyances can contribute toward the goal of private sector rapid job creation. The DoD's inferred belief in the rules that the two are mutually exclusive is incorrect.

The Pryor Amendment and earlier provisions of the DoD Guidance specifically require that proactive and constructive dialogue be established between the affected military branch and the local reuse authority. However, in regards to these provisions related to Economic Development, the local reuse authority is relegated to potentially pursuing only the "reconsideration" of the military decision. We believe that such appeals should only occur after numerous unsuccessful attempts to reach agreement have been made by both parties.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 19

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16132

Column 2 and 3

Paragraph 91.7 (f) (1); - (f) (2); (f) (4) (iii)

Recommended Changes/Comment:

- Subparagraph (1) should be amended to allow the Secretary of the Military Department to accept local community proposals for a longer payback period to DoD in unusual cases -- not to exceed 20 years.
- The actual 60/40% split in Subparagraph (2) should not be absolute.
- Delete Subparagraph (4) (iii)

Why:

- There may be specific circumstances that may justify a longer pay back period or an alternate split of project profits.
- Subparagraph (4) (iii) This selection of words will be highly inflammatory to most communities and the two sentences are unnecessary. The regulations in 41 C.F.R. 101-47.4908 already describe the reporting process for communities quite adequately.

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 20

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16132
Column 3
Paragraph 91.7 (f) (4) (iv)

Recommended Changes/Comment:

ADD the following paragraph:

"(C) A prorata share of the cost of basewide planning, maintenance, security, infrastructure repair, renovation, or construction. Infrastructure costs may include, but are not limited to: roads, water and sewer lines, storm drainage systems, utility systems, lighting, and habitat restoration."

Clarify Subparagraph (B) to provide specific examples of eligible costs.

Why:

The regulations referenced in (A) and (B) are not directly applicable to many of the types of costs that should be considered in valuing the "net profit" from base property sales. Military bases typically require considerable infrastructure renovation to become viable as urban properties. Infrastructure costs may be incurred throughout the base and even outside the base, but the benefits accrue to all properties. In addition, considerable planning, security, and maintenance costs may be incurred to make the property salable. All property sale proceeds should, therefore, contribute to covering these costs, and the "profit" from the sales should be adjusted accordingly.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 21

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16133, 16134

Column 2,3 1,2

Paragraph 91.7

Recommended Changes/Comment:

The City believes that interim rules leave base personal property open for removal. We support all issues and changes to these sections recommended by NAID.

Why:

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680
Contact Phone: (714) 573-3107

Comment No. 22

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16134
Column 2 & 3
Paragraph 91.7 (i)

Recommended Changes/Comment:

The City supports all comments and changes to this Section recommended by NAID.

Why:

Just because there is an economic development conveyance requested does not mean that property will necessarily have a high enough value to offset maintenance and marketing costs.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 23

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16135, 16136
Column Appendix A & Appendix B
Paragraph

Recommended Changes/Comment:

These charts will need to be modified to reflect any changes to text.

Why:

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680
Contact Phone: (714) 573-3107

Comment No. 24

PETTIT & MARTIN

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

101 CALIFORNIA STREET

SAN FRANCISCO, CALIFORNIA 94111-5881

(415) 434-4000

FACSIMILE: (415) 982-4608

TELEX: WU 330443 PEMLAWSFO

SENDER'S DIRECT DIAL NUMBER

LOS ANGELES
355 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071
(213) 626-1717
FACSIMILE: (213) 625-5704

SAN JOSE
50 WEST SAN FERNANDO STREET
SAN JOSE, CALIFORNIA 95113
(408) 295-3210
FACSIMILE: (408) 295-2612

NEWPORT BEACH
4695 MACARTHUR COURT
NEWPORT BEACH, CALIFORNIA 92660
(714) 476-7676
FACSIMILE: (714) 476-0117

WASHINGTON, D.C.
601 THIRTEENTH STREET, N.W.
WASHINGTON, D.C. 20005
(202) 637-3600
FACSIMILE: (202) 637-3699

May 31, 1994

Office of the Assistant Secretary
of Defense for Economic Security
Room 3D814, The Pentagon
Washington, D.C. 20301-3300

Re: Department of Defense Interim Final Rule Entitled
"Revitalizing Base Closure Communities and
Community Assistance"

Gentlemen:

I am providing these written comments to the Interim Final Rules published by the Department of Defense in the April 6, 1994 Federal Register, both in my individual capacity and as Northern California Regional Director for the National Association of Installation Developers (NAID). The national chapter of NAID is assembling comments from all of its members and is separately providing a compilation of comments to your office.

I will restrict my comments in this letter to the proposed "early sales" program.

Section 91.7(d) of the Interim Final Rules, which requires that military departments seek quick sales at fair market value is in fact a profit maximizing strategy that breaks the faith with some communities that were led to believe most if not all surplus property would be transferred to reuse authorities for little or no consideration, subject to recoupment. The quick sales strategy also imposes additional steps in the disposal process that are not only unduly burdensome and restrictive to the military departments, but also will inevitably give rise to conflicts which may place the military departments in an adversarial posture with local reuse authorities. Section 91.7(d) should be substantially modified better to incorporate the requirements for joint DOD-community cooperation as set forth in the Pryor amendments to the Defense Authorization Act for fiscal year 1994, set forth in Title XXIX thereto and the President's July 2, 1993 statement on "revitalizing base closure communities."

Office of the Assistant Secretary
of Defense for Economic Security
May 31, 1994
Page 2

I appreciate that the Pryor amendments, as ultimately adopted, do not permit the military departments to make economic development transfers to reuse authorities unless they are in a position to provide a written explanation as to why the property was not disposed of through competitive bidding or public benefit transfer. The expressed objective of Section 91.7(d) of the Interim Final Rules is to generate objective market data as to whether there is a ready market for all or significant portions of base properties. Unfortunately, as written, this section will not only fail to generate meaningful information as to marketability or market value but will also prove to be very cumbersome and distracting to the disposition agents of the military departments. As written, proposed Section 91.7(d) reflects an obvious concern that in the absence of some objective procedure, the military disposition agents will somehow find it difficult to implement the procedures for economic development transfers. In my opinion, this apprehension is unjustified.

In permitting transfer of base properties to reuse authorities for economic development, Congress recognized that reuse authorities often face incredibly complex and daunting challenges which can best be addressed by giving the reuse authority control not only of the reuse planning, but also (through economic development transfers) the ultimate disposition of surplus property. These challenges may include the following: (i) overcoming job losses and other economic hardship caused by the closing or down-sizing of the base; (ii) planning constraints such as the arbitrary mosaic of contaminated parcels, and vested uses resulting from Federal Property Act and McKinney Act screening, which may impede efficient reuse; (iii) finding money to replace or upgrade inadequate infrastructure; (iv) finding money to remove or replace obsolete improvements in the aid of rational redevelopment; and (v) making sure that any development takes account of endangered species, wetlands and other environmental constraints. Taken together, these and other challenges would, I believe, often be sufficient to justify the economic development transfer of all or significant portions of surplus property to local reuse authorities.

The authorization, under appropriate circumstances, given by Congress to military departments, to make economic development transfers to reuse authorities is a tool that can greatly facilitate the efficient disposition, rapid job creation and ultimate realization of proceeds both to the federal government and reuse authorities. Using this authority, the military departments have the discretion to designate large

Office of the Assistant Secretary
of Defense for Economic Security
May 31, 1994
Page 3

parcels for transfer to a reuse authority which contains some properties which may be relatively marketable and others which are not.

I am concerned that, if invited to submit "expressions of interest," the private sector will attempt to cherry-pick readily marketable parcels. This would undercut opportunities that the reuse authorities would otherwise have to allocate a portion of the sales revenues from the more readily marketable properties to address urgent infrastructure and redevelopment needs. If reuse authorities are only to receive the transfer of properties which are not readily marketable, then the practical ability of the reuse authorities to successfully convert bases to civilian use will be severely compromised. Although DOD's intention, as expressed at the outreach seminars, is to preclude cherry-picking, I believe that in practice, controversies will often arise as to whether particular sales in fact amount to cherry-picking.

The early sales program will often lead to an adversarial relationship between the disposal agents for the military departments and the communities. The adversarial relationship may arise when the military department proposes to sell parcels which the reuse authority reasonably expected to receive as an economic development transfer. Conflicts may also arise if, as presently contemplated, sales occur before the reuse authority has completed its reuse plan. The likelihood is great that the military department will be in a position of having to pressure the reuse authority to draft its reuse plan to accommodate uses or densities it would otherwise not have allowed on particular parcels, and such accommodations could well have the effect of impairing the reuse potential of other surplus property at the base.

Requiring the military departments to solicit and thereafter evaluate "expressions of interest" for all surplus property constitutes an additional burden to the military departments, which may delay and interfere with the rational disposition and reuse of the base as a whole and will not, in most cases, yield reliable information about fair market value. Expressions of interest, particularly those prepared before the reuse authority has completed its reuse plan, are not likely to be meaningful because they may not reflect an informed consideration of certain crucial due diligence issues such as (1) the likely character of surrounding uses, (2) the quality and availability of adequate infrastructure, (3) the compatibility of the intended use with the reuse plan, and (4) the likelihood that the land designated in the expression of

Office of the Assistant Secretary
of Defense for Economic Security
May 31, 1994
Page 4

interest will be deemed suitable for sale or lease. Since expressions of interest are non-binding, it is likely that there will be an avalanche of proposals from firms whose ability to proceed is either doubtful or implicitly conditioned on unrealistic assumptions. Moreover, expressions of interest from nominally qualified firms are likely to be so heavily qualified with conditions and assumptions as to be meaningless.

The military departments are likely to find the process of evaluating the good faith and reasonableness of proposals to be, at best, burdensome and distracting. Taken together, the six month advertising period, the indefinite period required for evaluation of proposals, and the requirement that disposal agents identify and segregate for eventual market sale parcels deemed to be readily marketable for which no expressions of interest have been received, will preclude expedient economic development transfers to reuse authorities.

Rather than formally solicit for expressions of interest, the military departments should be encouraged to consult informally with both interested and qualified developers and the reuse authority in order to collect advice and information which will enable the military departments to divide the surplus property at the base into bulk parcels of a size and configuration which is consistent with and supports (i) the pattern of uses provided for in the reuse plan; and (ii) the mutual objective of DOD and the reuse authorities to preclude the cherry-picking of the most marketable portions. Through such consultation, the military departments would (i) identify bulk parcels, if any, which should, if sold through competitive bids after the reuse plan has been adopted, yield offers at fair market value and serve the interests of rapid job creation and (ii) identify bulk parcels which are to be transferred to reuse authorities as economic development transfers. The informal consultative process described above would, I believe, be less cumbersome than solicitation for expressions of interest, would be less likely to lead to an adversarial relationship with local reuse authorities, and would yield as much or more information about whether there is a ready market than the solicitation process described in the Interim Final Rules.

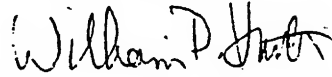
In sum, I recommend that the military departments be permitted to exercise discretion in determining the scope and sequence of fair market sales and economic development transfers to reuse authorities. Accordingly, the complex overlay of "early sale" regulations should be deleted or substantially modified.

PETTIT & MARTIN

Office of the Assistant Secretary
of Defense for Economic Security
May 31, 1994
Page 5

If you have any questions about the foregoing
comments, please call.

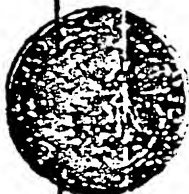
Very truly yours,

A handwritten signature in dark ink, appearing to read "William D. Hunter", written in a cursive style.

William D. Hunter

8840j

City of Alameda California



June 1, 1994

The Honorable William Jefferson Clinton
President of the United States
The White House
Washington, D.C. 20001

Dear Mr. President:

On July 2, 1993, you announced a major new Five Point Program to speed the recovery of communities where military bases were scheduled to close. This new policy was especially appreciated here in the Bay Area where base closures had been recently announced or were underway at Hunters Point Naval Shipyard Annex, Naval Station Treasure Island, the Presidio, the Alameda Naval Air Station and the Naval Aviation Depot, the Oakland Naval Hospital (Oak Knoll), the Public Works Center San Francisco Bay, and the Mare Island Naval Shipyard in Vallejo. We were further encouraged when you visited the Bay Area on August 13, 1993, and stated that "when a base closes, henceforward our first priority will be to create jobs and promote economic development" and "if we do the right thing (with base closure) it means a better future for our people and it means a brighter future for this area".

Since the announcement of your Five Point Program, we have seen its underlying goals eroded into a policy that seeks to enhance the Department of Defense's financial interests through private sector property sales at the expense of the economic recovery of our affected communities. First, we saw the "Pryor Amendment" to the National Defense Authorization Act for Fiscal Year 1994 watered down as it went through the legislative process. Second, and most disturbingly, we have become aware of the unfortunate policy choices incorporated into the Interim Final Rules promulgated by the Department of Defense on April 6, 1994 to implement Title XXIX of the National Defense Authorization Act for Fiscal Year 1994. These Interim Rules depart dramatically from your stated policies of: (1) job-centered property disposal that provided for rapid transfer of base property to the local community, and (2) fast track environmental clean-up where adequate funding would assure a quick characterization of environmental conditions and a rapid clean-up program to convert environmentally unusable land and buildings into potentially productive assets available to our communities.

We had interpreted your Five Point Program as an encouraging new directive to the Department of Defense to work closely with our communities to achieve rapid economic revitalization through enhanced job creation as its primary goal. Unfortunately, the Interim Rules encourage Department of Defense disposal agents to put base property up for sale to private parties before the land becomes available to communities; moreover, there is no requirement that any sale or disposal of base closure property be in accordance with the community reuse plan, the cornerstone of all federal and local efforts to put the property into productive civilian use. Not only will this process of offering a base for sale be counterproductive, but it sends a clear message to our communities that our ability to achieve our reuse goals and aspirations is in conflict with federal policy. In addition to inhibiting opportunities for job creation, we also believe that these rules will make eventual sale of the property more difficult. The rules appear to encourage piecemeal type development and discourages comprehensive planning. This process will reduce return to the federal government through eventual sale of property.

E. William Withrow, Jr., Mayor

Office of the Mayor, Room 301

City Hall

2263 Santa Clara Avenue 94501-4456

510-743-4545

JUN 08 '94 01:03PM BASE CONVERSION OFFICES

P. 2

President Bill Clinton

Page 2

June 1, 1994

In addition to the regulatory burdens created by the Interim Rules, we are being told that there are insufficient funds to implement your fast track clean-up policy; therefore, we are now faced with the normal prolonged process of environmental investigation followed by clean-up that has hampered community redevelopment since the 1988 closures were first announced.

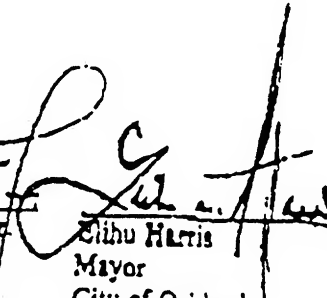
We have many specific concerns with the Interim Rules where it appears clear that the Department of Defense's interests have been placed before those of economic viability and job creation for our communities. Accordingly, we have asked our respective base representatives to prepare and forward a detailed list of our concerns to the Department of Defense as requested in the Interim Rules.

It is clear to us that the translation of your Five Point policy is not being carried out as you intended it to be, and we ask for your assistance in redirecting the Department's priorities so that our hard-hit communities can have the "bright future" that you envision. Specifically, we request: (1) that you direct the Department of Defense to conduct all property disposals in accordance with and in support of the community reuse plan, and (2) that you direct the Department of Defense, in their review of the Interim Rules, to work closely with community leaders and community based organizations to better balance the needs of the Department with the needs of the communities that have supported the Department through the years.

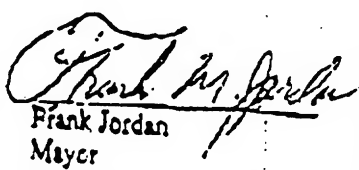
Sincerely,



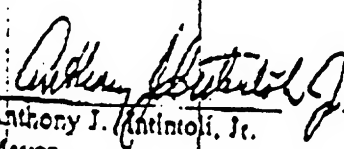
E. William Withrow, Jr.
Mayor
City of Alameda



Elihu Harris
Mayor
City of Oakland



Frank Jordan
Mayor
City of San Francisco



Anthony J. Antinoli, Jr.
Mayor
City of Vallejo

cc. Mr. William Perry, Secretary of Defense
Senator Diane Feinstein
Senator Barbara Boxer
Representative Ronald V. Dellums
Representative Nancy Pelosi
Representative George Miller

JOHN WARNER
VIRGINIA

COMMITTEES:
ARMED SERVICES
SELECT COMMITTEE ON INTELLIGENCE
ENVIRONMENT AND PUBLIC WORKS
RULES AND ADMINISTRATION

BCU
United States Senate

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CONSTITUENT SERVICE OFFICES:

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June 20, 1994

1032
7/7
Robert E. Bayer
Deputy Assistant Secretary of Defense
for Economic Reinvestment and
Base Realignment and Closure
The Pentagon
Washington, DC 20301-3300

Dear Bob:

As you know, I strongly support the Department of Defense efforts to facilitate the transfer of excess military property resulting from Base Realignment and Closure Commissions (BRAC) decisions to local communities for economic redevelopment. Presently, within the Commonwealth of Virginia, BRAC, with the approval of Congress, has made the decision to close the following major installations: Cameron Station in Alexandria, Harry Diamond Laboratory in Prince William County, and Vint Hill Farms in Fauquier County.

I also support the Administration's policy of assisting local communities, through reuse committees, in charting the direction that they feel is most appropriate in recovering from installation closures.

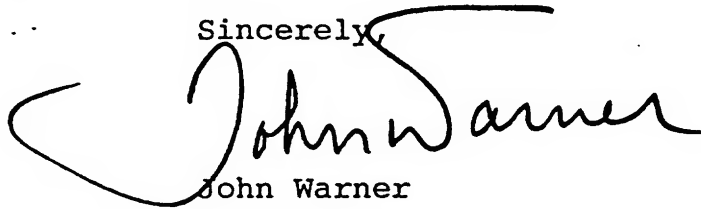
It is, therefore, with concern that I reviewed the BRAC Interim Final Rules published on April 6, 1994. I am particularly concerned with the provision regarding private sector interest. This provision, as I understand it, will allow the military to determine the appropriateness of private proposals and to unilaterally sell properties sought by local communities. Not only will this provision take away control from the local community reuse committee, but I fear it will make installations such as Vint Hill Farms, Harry Diamond Laboratory, and Vint Hill Farms, attractive targets for private real estate speculators.

It is clear to me that this provision will not only generate profits for speculators but will create much ill-will toward the military by the communities who had, prior to this interim final report, been led to believe that they would have a role in, if not the lead in, determining the reuse of these excess installations.

Robert E. Bayer
June 20, 1994
Page 2

I believe this provision is a grave breach of good faith between the Department of Defense and the many communities throughout the country affected by base closings. I strongly urge the Department to drop this provision prior to the Interim Final Rules being published.

Sincerely,

A handwritten signature in black ink, appearing to read "John Warner". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline that extends to the right.

John Warner

JW:gfw

*Allen
Forebeck
Steve Kleiman*

July 1, 1994

*1034
7/19*

Mr. Robert Bayer
Deputy Assistant Secretary of Defense
(Base Closures and Realignment)
Office of the Assistant Secretary of Defense
3D814 The Pentagon
Washington, D.C. 20301-3300

Dear Mr. Bayer:

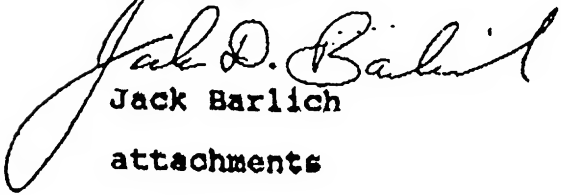
Attached are the specific comments from the Fort Ord Reuse Authority (FORA) Managers Group on the Interim Final Rules, issued on April 6, 1994. FORA is limiting its comments to four specific areas of the Interim Final Rules, which are particularly troublesome to FORA in replacing the serious economic impact from the Fort Ord closure on the Monterey Peninsula. These four areas of vital concern to FORA are as follows:

- * The "Jobs Centered Property Disposal" features which may allow the Army to sell substantial portions of Fort Ord--if an Army/DoD decision is reached that the land has a "ready market" independent of the level of infrastructure and investment required to achieve reuse and independent of our consensus "FORG plan".
- * The Economic Development Conveyance provisions which call for appraising the property as its "proposed reuse" rather than its current condition and current zoning.
- * The Profit Sharing provisions which do not specify what are appropriate local capital and operating investments over the years that can be netted-out properly before the 40 percent sales/lease distribution to DoD.
- * The Personal Property provisions which will still allow the Army to remove critical equipment at Fort Ord and other future bases, just as the Army removed church pews, irrigation lines, and airport operating equipment at Fort Ord.

In forwarding these recommended revisions to the Interim Final Rules, FORA must also express its concern that the tone and many of the specific details in the rules should be changed to enhance joint community-DoD/Army cooperation in the long-term redevelopment of Fort Ord and other closing bases. It would be helpful if the Interim Final Rules could reflect the good cooperation that has occurred in recent weeks leading up to the transfer of the properties for California State University at Monterey Bay and the University of California at Santa Cruz, now scheduled for July 8, 1994.

Thank you for your attention to our concerns. We are coordinating our responses with Congressman Sam Farr and Senators Barbara Boxer and Dianne Feinstein. Our specific recommended changes are outlined below. If we can provide additional information or answer any questions please call Joe Cavanaugh, FORA staff at (408) 242-FORA.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jack D. Barlich".

Jack Barlich

attachments

JB/rlb

c: Sam Farr
Barbara Boxer
Dianne Feinstein

From: Fort Ord Reuse Authority

Page 16120

Column 3

Paragraph 91.7 (d) (3)

1084-1

91.7103

Recommended Change:

While it is unclear whether the "ready market" appraisal and property marketing will still apply to Fort Ord as a 1991 closure action, the entire authority for the Military Department to sell land of Fort Ord or any "substantial part" of the base except in conformance with the approved consensus Fort Ord Reuse Group Plan should be deleted in its entirety.

This change is recommended because:

DoD and the Army should be supporting the approved FORG (Fort Ord Reuse Group, our predecessor entity) plan as called for 91.7 (c) and should not be selling property without local land use zoning or in conflict with the consensus plan.

Page 16131

Column 3

Paragraph 91.7 (e) (4)

1084-2

91.7E4

Recommended Changes:

The fair market value of Fort Ord should be determined by the current condition of Fort Ord with all its infrastructure problems, not some "proposed reuse of the property."

This change is recommended because:

Section 2903 calls for an explanation for any transfer of property for economic development purposes at less than "fair market value." The "proposed reuse of the property" is simply not current fair market value. DoD and the Army would thereby be penalizing the FORG communities for our initiatives in planning and financing the reuse of Fort Ord.

Page 16133 and 16134

Columns 2, 3, 1, 2 and 3

Paragraph 91.7

1084-3

91.7H

Recommended Change:

The entire section should be rewritten to allow the Military Base Commander to arrive at a listing of equipment to support the community reuse plan, and then

require an Assistant Secretary level approval for any changes to that equipment listing. The only exception should be military unique property and equipment related to the relocating unit or mission.

This change is recommended because:

The word "indispensable" to the military command is so broad that DoD can continue to remove water lines and church pews (such as at Fort Ord) whenever they wish to.

Page 16132

Column 3

Paragraph 91.7 (f)

1084-21 91.7F

Recommended Changes:

The Interim Final Rules should give specific examples of allowable local capital and operating costs that can be properly deducted in arriving at the net sales proceeds to be distributed to DoD (40 percent). FORA considers the following capital and operating cost elements must be recognized specifically in the Final Rules:

- * On-site and off-site roads and infrastructure
- * Adequate water services
- * Demolition costs
- * Design and engineering costs
- * Major university research facilities
- * Planning expenses
- * Marketing expenses, including advertising and brokerage fees
- * Federal agency relocation costs, such as Reserve Centers
- * Cost of providing adequate replacement McKinney Act housing
- * Capital and borrowing costs
- * Local net maintenance costs until the property is ready for development

This change is recommended because:

The Federal Procurement Regulations cited in the rules are not an adequate documentation of the type of local costs that will be incurred.

BILL MCCOLLUM
8TH DISTRICT, FLORIDA

VICE CHAIRMAN
REPUBLICAN CONFERENCE

COMMITTEE ON
BANKING, FINANCE AND
URBAN AFFAIRS

COMMITTEE ON
THE JUDICIARY

Congress of the United States
House of Representatives
Washington, DC 20515-0908

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WASHINGTON, DC 20515-0908
(202) 225-2176

DISTRICT OFFICE:
SUITE 650
605 EAST ROBINSON STREET
ORLANDO, FL 32801
(407) 872-1962
TOLL FREE FROM KISSIMEE
931-3422

June 27, 1994

1085
7/7

The Honorable William Perry
Secretary of Defense
The Pentagon
Room 3E880
Washington, D.C. 20301

Dear Secretary Perry:

As you know, the Orlando Naval Training Center is located in my Congressional District and was closed under the BRAC 1993 process.

Simultaneous with the closure announcement, the Administration released the President's "Five-Point Plan" to spur community economic reinvestment and to allow the localities more flexibility and authority in their reuse planning. However, the Department's interim final rule, published in the April 6, 1994 Federal Register, includes several controversial rules that I believe will detrimentally affect those communities with closing military installations.

The provisions of the rule that I am most concerned with are those incorporated in the "jobs centered property disposal" section of the interim final rule. The procedure set forth in the rule provides for a six month advertisement period and for the Department to review any offers received during that time. It also provides for the Department to take action resulting in a sale of specified property. Unfortunately, the rule does not allow for local reuse input - there are simply no provisions to require the Department to consult with local government or local redevelopment authorities until after the decision to sell the property has been made.

This rule seemingly violates the provisions and intent set forth in the Pryor Amendments: to allow the primary responsibility for shaping and implementing this redevelopment to rest with the local community. The primary goal of this correspondence is to urge the Department to make the appropriate adjustments to the rule and involve local governments in the process from the beginning of the advertisement period, assure that the proposals submitted adequately address the local reuse plans, zoning, and infrastructure improvements required by the reuse plan, and involve the community in any sale decisions that are made by the Department.

It is my understanding that the City of Orlando has submitted some proposed language which would actually remedy the concerns that I have discussed above. I have taken the liberty of attaching those suggestions for your review.

I urge you to carefully review the concerns that I have outlined above and consider making the appropriate modifications in the rule prior to the Department's final adoption.

3626

The Honorable William Perry
June 27, 1994
Page Two

I believe the changes suggested by the City of Orlando and other communities similarly affected will meet the intent of Congress and the Administration by shifting the primary responsibility of shaping and implementing redevelopment to those local communities directly impacted by the closure of a military installation.

Thank you for your attention to my concerns and please feel free to contact me, John Ariele of my District Staff, or Don Morrissey in my D.C. office should you require any additional information regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill McCollum". The signature is fluid and cursive, with a long horizontal stroke at the end.

BILL McCOLLUM
Member of Congress

BMcC:jma

Enclosure

**COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT
FOR FY 1994**

TO: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

FR: City of Orlando, Florida

RE: Closure of Naval Training Center Installation, Orlando, Florida

Page 16130 - 16131

Column 2

Paragraph (d) - Jobs Centered Property Disposal

Recommended Changes:

§91.7, Paragraph (d) (2) - The Military Departments should identify properties with potential for rapid job creation and begin, as soon as possible, but not later than completion of the new expedited McKinney Act Screening, paragraph (b) of this section, an appraisal or other estimate of the properties' fair market value. This appraisal shall consider the local reuse plan, local zoning and comprehensive plan, the environmental impact statement, required infrastructure upgrades, and other improvements which will be required to the property given its sale on an "as is where is" basis. Such appraisals or estimates should address a range of likely market values taking into account: feasible uses for the property; the uncertainties in property development; and, current market conditions (i.e., recognizing the state of the market after a closure announcement). The preferences of the local government as stated in the reuse plan and local zoning constraints shall also be considered. The appraisal should not be based on the replacement cost of the properties, since they may not be readily adaptable for civilian use. Additionally, the appraisal should not be based on the highest and best use, but the most likely range of uses consistent with local interests. All appraisals shall consider required infrastructure upgrades to assure that the property does not become a burden upon the local taxpayers. The above appraisal may be accomplished for 1988 and 1991 closures if it is determined that it would be beneficial to do so and will not delay the disposal process.

Paragraph (3) - To assist in the appraisal/estimation of fair market value of properties with a potential for rapid job creation, and to determine if interest exists in properties not originally identified for rapid job creation, the Military Departments shall, for 1993 and 1995 closures, advertise for expressions of interest in all or any substantial part of each closing installation. For 1993 and 1995 closures, the Military Departments shall advertise at the completion of the new expedited McKinney Act Screening process (see paragraph (b) of this section). The Military Departments shall consult with the local government prior to placing the advertisements.

Paragraph (d) - Jobs Centered Property Disposal

The Military Departments may advertise for expressions of interest in all or any substantial part of each closing installation on the 1988 or 1991 closure lists if it is determined that it would be beneficial to do so and will not delay the disposal process.

Paragraph (3) (i) - Advertisements for expressions of interest shall be open for six (6) months. Expressions of interest received should detail the intended use, the site plan, the jobs estimated to be created, the schedule of development and hiring, and an evaluation of the worth of the land and buildings. In addition, such expressions of interest include compliance with the local reuse plan, compliance with local zoning and comprehensive plans, and note the ability to provide infrastructure improvements which will be required, as well as demonstrate adequate financial ability to go through with the proposed development. Upon receipt of the expressions of interest, the Military Departments will consult with the local redevelopment authority in regards to the expressions of interest. The local redevelopment authority shall have the ability to review and recommend acceptance or denial of any expressions of interest received. Advertisement for expressions of interest will be conducted simultaneously with all other disposal actions and are not an additional step in the disposal process.

Paragraph (3) (ii) - The Military Departments shall analyze each expression of interest and determine within thirty (30) days of receipt if it is made in good faith and represents a reasonable development proposal. In making its analysis, the Military Departments shall consider the recommendation of the local redevelopment authority. After review of the recommendation by the local redevelopment authority, if the Military Departments decide that an expression of interest received demonstrates the existence of a ready market, the prospect of job creation, is consistent with the Base Re-Use Plan, local zoning, adequately addresses required infrastructure improvements, shows adequate financial ability to proceed with the development, and is consistent with the plans of the local redevelopment agency, and offers proceeds consistent with the range of estimated fair market value, it may decide to offer the property for sale. If the local redevelopment authority and the Military Departments (or his designee) do not agree on the proposed sale, the sale decision shall be referred to the Secretary of Defense (or his designee) for decision. The procedure for this review is set forth in paragraph (d) (5). Potential offerors will be required to work with the redevelopment authority so that their development goals will be compatible with the local redevelopment plan.

Paragraph (3) (iii) - (no changes)

Paragraph (4) - After the completion of the initial six (6) month advertisement period, if no offers have been received, the local redevelopment authority may request additional marketing assistance from the Military Departments. If no such request by the local redevelopment authority is made, no additional marketing of properties shall occur.

Paragraph (d) - Jobs Centered Property Disposal

Paragraph (5) - Pursuant to paragraph (d) (3), the local redevelopment authority has the ability to recommend approval or denial of any offers received. Should the local redevelopment authority, and the Military Departments disagree on whether the proposed sale should occur, the decision to sell shall be referred to the Secretary of Defense for decision. The local redevelopment authority may present its position in writing and may request a meeting with the Secretary of Defense in order to present its position to the Secretary. The Secretary shall consider the position of the local redevelopment authority and make a decision. Such decision shall be announced within sixty (60) days of the date the matter is referred to the Secretary of Defense.

Why: The Job Centered Property Disposal procedures do not appear in the underlying Statutes. It appears that these procedures were developed by the drafters of the rules. It truly appears that the procedures are an attempt to simply make money from those properties which could be marketed.

The Job Centered Property Disposal process appears to violate the sense of Congress and the President in that it fails to actively involve the local community in decisions made with regard to property on Bases which are to be closed. Public Law 103-160, Div. B, Title XXIX, Section 2903 (c), November 30, 1993, 107 Stat. 1915 provides that:

"In order to maximize the local and regional benefit from the reutilization and redevelopment of Military Installations that are closed, or approved for closure, pursuant to the operation of a Base Closure Law, the Secretary of Defense shall consider locally and regionally delineated economic development needs and priorities into the process by which the Secretary disposes of real property and personal property as part of the closure of a Military Installation under a Base Closure Law. In determining such needs and priorities, the Secretary shall take into account the redevelopment plan developed for the Military Installation involved. The Secretary shall insure that the needs of the homeless in the communities affected by the closure of such installations are taken into consideration in the redevelopment plan with respect to such installations."

Paragraph (d) - Jobs Centered Property Disposal

However, as the interim rules have been published, the redevelopment authority has absolutely no voice in the process until a decision to sell by the Military Department. Never is the local government consulted about responses which have been received as a result of the advertisements, whether such responses fit within the proposed use of the Base as set forth by the local government in the redevelopment plan or whether the proposed use meets the development needs and priorities as set forth by the local government.

Further, providing for local government input only at the end of the process, and only through a formal reconsideration mechanism, adds a completely unnecessary adversarial role between the local government and the Military Department. It truly seems in drafting the interim rules that the drafters have lost sight of the spirit of cooperation which was reiterated so many times by our federal leaders, and are attempting simply to sell off what property may be sold, without consultation to the local government. Even the most basic elements of coordination with the local government appear to be lacking in the sale process, in that there is no consideration of zoning requirements, infrastructure requirements and improvements due to the proposed development.

To add insult to injury, the drafters go further in paragraph 4 of the Job Centered Property Disposal Rule in that even if no expressions of interest are received during the first six (6) month advertisement period, the Military Department may decide to continue to market a few high-value installations for an additional period of time. Again, the local government is removed from the system, and is informed only at the end of the initial six (6) month advertisement period whether any high-value installations will be continued to be marketed at the close of the normal six (6) month period. The local government is not consulted early in the process, and may only object in the form of a request for reconsideration, again placing the local government authority in an unnecessarily adversarial position with the Military Department.

It should also be noted that in paragraph 3 (i), the statement is made that, "Advertisement for expressions of interest will be conducted simultaneously with all other disposal actions and are not an additional step in the disposal process." This statement is erroneous for the following reasons:

1. For 1993 Bases, the six (6) month advertisement period begins at the close of the McKinney Act Screening (paragraph (d) (3)).
2. As now provided in the Regulations (paragraph (b) (7) to (10)), at the close of the McKinney Act Screening, the local redevelopment authority can incorporate the property not claimed by the McKinney Act Screening process into the local redevelopment plan.

Paragraph (d) - Jobs Centered Property Disposal

3. Since the new six (6) month advertisement period does not begin until the close of the McKinney Act Screening, it adds at least six (6) months to the process and delays the time frame in which the local redevelopment authority can incorporate the property into the local re-use plan.

The suggested changes we have incorporated in paragraph d - Job Centered Property Disposal, attempt to do the following:

1. Involve the local government to a large extent in the initial stages of the advertisement period. This will allow the local government to feel confident that any proposals which may ultimately be accepted by the Military Department will be consistent with zoning regulations, infrastructure requirements, local comprehensive plans, and other normal development requirements. The local government must feel confident that any transfers under the Job Centered Property Disposal procedures will fit in the overall community plan, as well as comply with normal development laws, rules and regulations.
2. Attempt to revise the Job Centered Property Disposal rules to delete the unnecessary adversarial relationship by providing for early consultation and involvement of the local government, and providing for deferral of the sale decision to the Secretary of Defense should the local redevelopment authority and the Military Departments disagree on the sale.
3. Provide that no additional marketing shall occur beyond the initial six (6) month advertisement period unless additional assistance is requested by the local redevelopment authority.

CITY OF ORLANDO
400 South Orange Avenue
Orlando, Florida 32801


Glenda E. Hood, Mayor

DATE: June 23, 1994



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 5 1994

1036
7/11

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Office of the Assistant Secretary
of Defense (Economic Security)
The Pentagon, Room 3D854
Washington, D.C. 20301

Dear Sir/Madam:

In response to the April 6, 1994, Federal Register request for comments on a Proposed Rule addressing transfers of property under Section 2908 of the National Defense Authorization Act for Fiscal Year 1994 (Act) and an Interim Final Rule pursuant to Section 2903 of the Act, the United States Environmental Protection Agency (EPA) provides the following comments.

Interim Final Rule - Revitalizing Base Closure Communities

This Interim Final Rule provides new procedures for disposing of closing bases to ensure early reuse of the base's valuable assets. However, these procedures do not acknowledge, or explicitly take into account, the United States' responsibility to comply with Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, (CERCLA) in making real property transfer decisions.

For example, Section 120(h)(3)(B)(i) of CERCLA provides that in the deed transferring real property on which hazardous substances were stored for one year or more, known to have been released or disposed of, the United States must provide a covenant that "all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before the date of such transfer." The language "has been taken" is defined in Section 120(h)(3) of CERCLA to mean "the construction and installation of an approved remedial design has been completed, and the remedy has been demonstrated to the [EPA] Administrator to be operating properly and successfully." Unless the conditions underlying this covenant are met, the United States may not transfer the property by deed. Since the base transferring agency would be required to comply with these provisions, the Interim Final Rule should be clarified to reflect these CERCLA requirements.



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Proposed Rule - Revitalizing Base Closure Communities

The Proposed Rule attempts to establish a mechanism by which closing military installations or portions thereof could be transferred to the private sector more expeditiously than is currently taking place. The Proposed Rule would allow the Department of Defense (DoD) to enter into agreements to transfer real property at closing military installations to a person willing to undertake the environmental cleanup of that property.

We believe the Proposed Rule needs to more fully address the relationship between the liability of the purchaser to conduct the required environmental restoration and the liability of the United States under CERCLA. For example, although the regulation correctly notes that certain statutory rights to indemnification are not available to the purchaser, the transfer does not eliminate the obligation of the United States to perform required remedial action. The covenant required by Section 120(h)(3)(B)(ii) of CERCLA, warranting that any additional remedial action found to be necessary after the date of transfer shall be conducted by the United States, must be provided in the deed when a deed can be delivered.

Because of this covenant, it is unclear whether, under the Proposed Rule, the purchaser (i) would be obligated to perform any future, post-title transfer cleanup tasks, or (ii) would be obligated to perform only all non-remedial cleanup tasks (e.g., additional removal actions, including remedial investigations and feasibility studies, or RCRA corrective actions). It is also not clear from the proposed language whether subsequent purchasers, assignees, etc., are precluded from asserting claims for indemnification against the United States.

Under the Proposed Rule, prior to transfer, the purchaser must demonstrate "the ability to adequately perform all required environmental clean-up, waste management and environmental compliance activities." (Section 91.7(j)(3)(i)) This provision seems vague in that the Proposed Rule provides no indication as to how a purchaser would demonstrate such an ability (e.g., financial capability, technical expertise, compatibility with existing remedial activity). Similarly, the requirement for "a bond or other form of financial assurance" of proposed Section 91.7(j)(3)(iii)(C) does not specify whether such financial assurance is for restoration costs or some other obligation of the purchaser.

Importantly, to the extent that a potential purchaser will be required to become a permittee under an existing RCRA, Clean Water Act, Clean Air Act or other environmental permit, the purchaser will be required to meet all State and Federal statutory and regulatory requirements related to such permit. For example, for real property containing a RCRA permitted

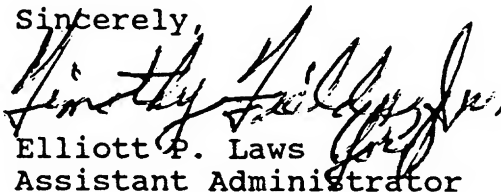
facility, a purchaser would have to satisfy the financial requirements of RCRA. Consequently, the stipulation required in the agreement to purchase as provided by proposed Section 91.7(j)(3)(iii)(B) should also include applicable Federal and State permits.

The regulation should also clearly state whether the "estimated fair market value" of the property is based on its value before or after the cleanup.

Finally, to ensure that this Proposed Rule will accelerate the cleanup of closing installations, the regulation should provide for participation by all parties to the Interagency Agreement (IAG) in the determination to transfer the installation or part of the installation to a person willing to undertake the cleanup. In addition, since IAGs establish binding enforceable DoD obligations with EPA, the regulation needs to clearly state that the military service will remain responsible for meeting IAG imposed obligations, such as cleanup schedules and milestones. For example, the obligation to pay IAG stipulated penalties will remain with the military service should the restoration work not proceed in accordance with the IAG.

If you have any questions concerning our comments, please contact Bob Carr at (202) 260-2035 or Seth Thomas Low at (202) 260-6981.

Sincerely,



Elliott P. Laws
Assistant Administrator

cc: Sherri W. Goodman, DoD
Timothy Fields, OSWER
Jim Woolford, OSWER

Helen

JEFFERSON PROVING GROUND REGIONAL DEVELOPMENT BOARD

Jefferson Proving Ground
1505 West Ordnance Drive
Highway 421
Madison, Indiana 47250
(812) 273-6140
Fax (812) 273-6098

1097
7/11

July 5, 1994

Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

To Whom It May Concern:

I attended the DoD Outreach Seminar at Chicago May 5-6 and have finally found time to submit comments on the Interim Rules on Base Closure Community Assistance, Title 29.

My time has been in short supply since I'm the only paid staff for the Jefferson Proving Ground Regional Development Board. We "only lost 400 jobs" and didn't seem to qualify for the larger OEA grants. It didn't seem relevant to OEA that the community is only 12,000 people and the base is an overwhelming 55,000 acres with very difficult land use situations to consider. It is clear to me now that we could use three or four additional staff persons to deal with the multitude of issues surrounding base closure. I end up taking this stuff to lunch, home and roadtrips in attempts to deal with the incredible amount of bureaucratic complications that my board has to address.

My comments will not be polished but rather reflect my individual experiences with attempts to help my three-county region effectively reuse the US Army Jefferson Proving Ground.

Department of Defense Policy

Recognize the need to make the individual military departments observe and adhere to the rules and guidance being developed under Title 29. I've already seen numerous instances where the Army does their thing and the DoD simply turns their heads and says it is an Army matter. Either make rules that everyone plays by or don't waste everyone's time.

Ready Market Sales

There is the potential for a big disconnect here. A sale can take place to an organization/entity that is the last thing a community may want to see happen. You've got to reconsider this aspect and bring a level of community involvement. I understand the DoD and Services are interested in generating revenue, but at what costs?

I'm concerned about how you test the market. This should be spelled out and be nearly uniform for all properties. I can see discrepancies where a buyer exists and maybe no interest exists in reaching other potential buyers, advertising is limited. Also where no buyer exists interests in reaching potential buyers is high and advertising is much broader.

There is great deal of concern on behalf of some members of our community that the Army would sell some of the best JPG property without concern for the community. Currently we have the International Union of Operating Engineers looking at 5,500 acres of JPG and we haven't finished our reuse plan. It is disheartening to know now that the Army can do what they want regardless of our interest.

Personal Property Disposal

Your exempted personal property categories provide a framework for most all property to stay exempted from helping with reuse activities. Who is the policeman here? Who makes these determinations and who can the community appeal to?

The pecking order in the interim rule puts the communities next to last. We're behind even other federal agencies. It concerns me that we may be left with only the junk that has no reuse benefit.

Also there exists the potential for difficulties if the community assumes certain property will be available when putting together the reuse plan, only to find out later that the equipment of property is leaving. I've been there and seen this.

Screening

We have the US Fish and Wildlife Service interested in nearly 52,000 of the 55,000 acres at JPG. They wish to turn it into a refuge. We see limited economic benefit from this activity. We have tried to negotiate with the USFWS but achieved only limited success. Final decision on who gets what hasn't been made. I think the interim rules should attempt to direct federal agencies and DoD/Military Service decision makers to more highly consider the communities interest for economic development. The president's plan may have expressed interest in jobs but federal agencies still have the property disposal laws working in their favor. Political avenues are the only way can hope to address this taking by the USFWS.

I cannot recall the person's name at Chicago but I ran this situation by him. He responded that his hope and desire is that a fair and equitable arrangement could be met. This is not the case as of this writing.

Economic Development

I understand that guidelines are being developed so as to identify what constitutes economic development activities that merit discounted conveyances. Please consider the long-term economic development needs of rural areas. Much like I stated above, the USFWS is taking parcels that we believe have development potential in the future. Once USFWS take the property is will be impossible to get it back.

Long term economic development concerns include landbanking for future industrial/commercial use, landbanking of wetlands to help mitigate local outside the fence and right of way corridors for future transportation project.

Appraisals

Appraisals must be based on the property as it is not for what it is proposed to be used for. Does this need to be explained to anyone?

Environmental Impact Statement for Reuse and Disposal

This area may not be addressed by Title 29 but it is so key maybe it should be. The Record of Decision seems to me to be extremely critical to any reuse activity. The EIS process should be reconsidered so that the community has a definite role in the process. March 15, 1994 I requested that Paul Johnson consider providing the Jefferson Proving Ground Regional Development Board cooperating agency status in the EIS process. I still haven't heard from anyone regarding this request.

Caretaker

Military Departments should consider working with the reuse community to develop cost effective solutions to providing an adequate level of caretaker services. By working together and considering the reuse plan I'm sure cost-saving could be identified. These saving could in turn help make improvements to the property and help with disposal or lease of the property.

Utilities

Utilities should be considered real property and be made available to communities through a public benefit conveyance.

In closing, it seems to me that the President, the Department of Defense and the military departments have to make a couple of big decisions. Do you really want to see community's succeed at reusing former military bases? Is adjustment and economic development your number one priority? Are you simply interested in providing lip services and confusing legislation that provides enough wiggle room to do whatever the overriding political interest might be at the time?

Think about it and I hope you come up with something that you and country can live with.

Thank you for your time and consideration of my comments. If you have any questions regarding this transmittal please contact my office at 812.273.6140.

Best regards,

A handwritten signature in black ink that reads "Bob Grewe". The signature is written in a cursive, flowing style with a large initial "B" and a long, sweeping underline.

Bob Grewe,
Redevelopment Coordinator

Helen BRAC.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240
July 5, 1994

Honorable Joshua Gotbaum
Assistant Secretary of Defense
for Economic Security
Room 3D154
The Pentagon
Washington, D.C. 20301-3300

1038
7/11

Dear Mr. Gotbaum:

I am pleased to provide the following comments on the interim final rule which implements both Title XXIX of the National Defense Authorization Act for Fiscal Year 1994 and the President's Five-Part Plan to revitalize base closure communities.

The Department of Interior (DOI) is fully supportive of the intended goals of rapid redevelopment, the revitalization of base closure communities, and the creation of new jobs in the impacted areas. However, we also wish to express concern about the possible effect of the regulations on DOI's ability to administer the public benefit discount provisions of Section 203(k)(2) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(d)(2)) and to recommend technical corrections to the interim rule which will allay these concerns.

Of particular interest is how these regulations will effect two major initiatives of the DOI: (1) protection of natural resources and (2) preservation of public parks and recreation areas. As it pertains to public park and recreation values, we are concerned that the implementation of the new regulations will hinder DOI's ability to ensure these resources remain in the public estate through the Federal Lands-to-Parks Program.

It is our understanding that the Congress intended that base closures be conducted in accord with the 1949 Act, where appropriate, and that the new legislation fulfill one of the objectives in the President's Five-Part Plan by adding economic development to the list of "public uses" which already qualify for no cost or discounted conveyances.

The Department of Defense reinforces this perception by stating in section 90.4(a)(1) that its policy is to implement the President's plan by expeditiously transferring real and personal property that enhance economic development and job creation **or other public benefits**.

The regulations go even further in that same section by generically stating that the use of existing public benefit conveyances should be considered, where appropriate, **before** the use of a public benefit conveyance for economic development purposes.

However, subsequent sections suggest that in some instances real property sales take precedence over public benefit conveyances or references to the public benefit disposal process have been omitted entirely. These concerns are particularly applicable to the job-centered disposals addressed in Section 91.7(d)(3) and (d)(4) and form the basis for the DOI's two major recommendations expressed below.

Recommendation 1: Section 91.7(d)(3)--Public benefit conveyances are recognized as a priority in 91.7(e)(3), are acknowledged in (d)(4) but are conspicuously omitted in the procedures for section (d)(3) conveyances. This is in error.

Therefore, subsection (ii) should be rewritten to require that Military Departments weigh public benefit conveyance proposals and local agency support for such proposals before offering the property for sale, and should also include the same language as in (d)(4) (revised below) which would exclude property likely to be disposed of under an existing public benefit conveyance program from the (d)(3) jobs-centered disposal process.

Recommendation 2: Section 91.7(d)(4)--Park and recreation has been omitted from the list of possible public benefit conveyances. The fifth sentence should read: "In making these determinations, *park and recreation*, airport, port, and school property should be excluded if it appears that they are likely to be converted to public *park and recreational use*, airports, ports, or schools, *or other uses* under existing public benefit conveyance programs."

The following recommendation addresses a major inconsistency in the interim rule with respect to the procedures and time frames for State and local agency screening.

Recommendation 3: Appendix B to Part 91--Closure and Transition Timeline for a Notional BRAC Base That Closes on September 30, 1997, indicates that State and local screening will be completed by June 1. This is contradicted by 91.7(a)(8) which states that screening of real property with State and local government agencies shall take place concurrently with McKinney Act screening (another 60-175 days after completion of Federal agency screening), and 91.7(c)(2)(ii) which implies an even longer period of time (up to 1 year) may be necessary to insure that appropriate public benefit recommendations are included in the local redevelopment plan.

The remaining recommendations (4-8) identify those sections where corrections and modifications are necessary to insure consistency within the interim final rule and with Recommendations 1 and 2.

Recommendation 4: Section 90.4.(a)(1)(i)--The second sentence should be rewritten to be consistent with 91.7(e)(3) as follows: "~~The use of~~ Existing public benefit conveyances should be ~~considered~~ used, where appropriate, before the use of a public benefit conveyance for economic development."

Recommendation 5: Section 91.4(a)--A statement should be included in the policy that reflects the exception for public benefit conveyances allowed under 91.7(d)(4) and proposed for (d)(3): "Selling properties quickly for public or private development to speed up job creation where a ready market exists *except those properties that may be excluded by the local redevelopment authority for public benefit conveyance.*"

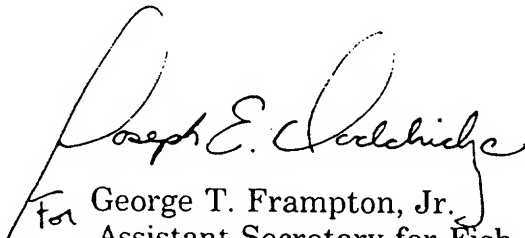
Recommendation 6: Section 91.7(d)(2)--This section requires the Military Departments to conduct appraisals or other estimates of fair market value to identify properties with potential for rapid job creation. Among other guidelines, this section indicates "the appraisal should not be based on the highest and best use, but the most likely range of uses consistent with local interests". This section should be revised to include among the "likely range of uses" potential public benefit conveyances such as park and recreation.

Recommendation 7: Section 91.7(e)(1)--A statement should be added to the fifth sentence to provide consistency: "..., *after it is determined that the base, or significant portions thereof, cannot be sold in accordance with the rapid job creation concept or transferred through a public benefit conveyance.*"

Recommendation 8: Section 91.7(e)(3)--The first sentence can be strengthened by deleting the word "generally": "The economic development conveyance authority is an addition to existing public benefit authorities and, ~~generally~~, should not be used when...."

We appreciate the opportunity to comment on the interim final rule. Additional clarification, if needed, can be obtained from Wayne Strum, Acting Program Manager, Federal Lands-to-Parks Program, National Park Service, 202-343-3759.

Sincerely,


For George T. Frampton, Jr.
Assistant Secretary for Fish
and Wildlife and Parks

BRAC

VINT HILL ECONOMIC
ADJUSTMENT TASK FORCE

26B John Marshall Street
Warrenton, VA 22186
Office: (703) 347-6965
Fax: (703) 349-2304

f

July 6, 1994

Office of the Assistant Secretary of Defense
for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

1039
7/13

Re: Comments on BRAC Interim Final Rules

Dear Sir:

Enclosed you will find two comments on the BRAC Interim Final Rules issued on April 6, 1994. These comments are in addition to comments previously submitted by the Vint Hill Economic Adjustment Task Force. They respond to the request from Josh Gotbaum, stated at the meeting called by Senator Pryor on June 24, 1994, to suggest wording changes to address specific concerns.

We appreciate the extension of the public comment period which allowed these comments to be submitted.

Sincerely,



Owen W. Bludau
Executive Director

Encl.

cc: Senator John W. Warner
Senator Charles S. Robb
Congressman Frank R. Wolf
Secretary of Defense D. William Perry
David Lane, White House Office of Economic Security

**Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward Comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Vint Hill Economic Adjustment Task Force
(Activity/Location/Community/Installation/Group)

Page 16133
Column 1
Paragraph 2

Recommended changes:

Add a new paragraph--number (g) (5). The new paragraph should generally state:

"(5) The Secretaries of the Military Departments will support local use of long-term leases (2-50 years) for the purpose of securing more rapid economic redevelopment. One year renewable leases will only be used when requested by the local redevelopment authority or the end user. Long term leases may be requested by the local redevelopment authority or the end user when needed to borrow renovation funds or to justify making use renovations. Long-term leases may be used, when requested by the local redevelopment authority or end user, where transfer of title is delayed pending completion of environmental remediation until such time as the site is clean and title can be transferred."

Why:

Interim leases on BRAC bases will be the primary means of obtaining rapid economic redevelopment. Interim leases can be used prior to bases being fully closed and sites transferred and prior to some sites being cleaned which need environmental remediation.

Short term leases, especially one year renewable leases, will not justify significant investments for use renovations by either a local redevelopment authority or an end user. Banks will not loan funds for renovations where a short-term lease is involved. Also, users will not invest their own funds to make major use renovations if they can not depreciate the costs over a longer time period allowed by tax law. Since most military facilities will require some modifications to make them reuseable, and many will require extensive and expensive renovations, one year renewable leases, in reality, preclude reuse of most facilities.

Name: Owen W. Bludau, Executive Director
Address: 26B John Marshall Street
Warrenton, VA 22186
Phone: 703-347-6965

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

**Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward Comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Vint Hill Economic Adjustment Task Force
(Activity/Location/Community/Installation/Group)

Page 16134
Column 3
Paragraph 3

Recommended changes:
Additions to paragraph (i)(3):

“(3) The initial minimum level of maintenance and repair to support non-military purposes, *and its time of duration*, shall be determined during consultation between the Military Department and the redevelopment authority. This level, *the time duration during which it applies*, and the property to which it applies, shall be determined during consultation.....”

“.....In no case shall the level of maintenance and repair:.....

(iii) Cease on property or facilities on which title remains with the military pending completion of environmental remediation, without the concurrence of the local redevelopment authority. If the property or facilities can be used under interim leases until remediation is completed, the requirement for maintenance and repair may be made part of the interim lease provisions.”

Why:

The discussion of rules for levels of maintenance and repair of facilities and equipment is both confusing and fails to answer some obvious questions. Paragraphs (i)(2) and (i)(3) do not provide any guidance on how long the levels of maintenance will be maintained. For example, if a base closure was announced in 1993, the reuse plan completed by the locality in mid-1995, and the base not scheduled for full closure until late 1997, does the rule mean that maintenance on all facilities, utility systems and land will be maintained until late 1997, even though most of the land and buildings are vacated before late 1997? Will military maintenance of base grounds continue if interim leases are provided for use of individual buildings or groups of buildings on the base? If environmental remediation is delayed beyond base closing; who is then responsible for land or facility maintenance of the “problem” areas until remediation has occurred and titles can be legally transferred?

Name: Owen W. Bludau, Executive Director
Address: 26B John Marshall Street
Warrenton, VA 22186
Phone 703-347-6965

(NOTE: LIMIT TO 1 COMMENT PER PAGE)



PROJECT

20 S. State Street
Suite 1880
Chicago, Illinois
3604-2103

12 427 4256
fax 312 427 6251

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July 8, 1994

Mr. Joshua Gotbaum
Assistant Secretary of Defense
for Economic Security
Room D814
The Pentagon
Washington, D.C. 20301

1090
7/13

Dear Assistant Secretary Gotbaum:

Openlands Project would like to offer comments on the interim final rule for Revitalizing Base Closure Communities and Community Assistance, published in the Federal Register on April 6, 1994. Dedicated to the preservation and enhancement of open space throughout the metropolitan Chicago region, Openlands Project has been an active participant in reuse planning activities for several local military installations.

Openlands Project supports the shift from emphasizing a high return on the sale of surplus property toward greater consideration of local interests in the reuse of former military installations. Greater recognition of local needs is critical for the successful development of a comprehensive reuse plan. However, Openlands would like to point out that it is important to recognize the existence of resources that are of greater than local interest. In cases where the resources contained on the site are of regional significance, regional input is also important.

Although the new regulations provide a number of needed improvements, several difficulties in the disposal process remain. First, the simultaneous screening of real property with state and local government agencies and screening with homeless providers under the McKinney Act creates confusion. While we support the concept of concurrent screening as a means of expediting the disposal of base closure properties, the procedures outlined in the interim rule should more clearly outline how the process would work in the case of competing requests for the same property.

A related concern involves the possibility of repeated McKinney Act screening in the event that an approved proposal by a homeless provider is withdrawn or otherwise not implemented. Openlands opposes any provision which would allow for prolonged reservation of surplus property for the homeless once the initial screening has been concluded. In addition to adding uncertainty and delay, multiple screening periods for a single use precludes efficient, comprehensive reuse planning and is inconsistent with the expeditious disposal process for which the interim rule was established. Moreover, OLP agrees with concerns expressed by the National Association of Installation Developers (NAID) that discretionary authority should be granted to the Secretary of Defense to reject McKinney Act proposals that impair overall property reuse.

Second, Openlands strongly supports language which recognizes special circumstances associated with early (1988, 1991) base closures and the need to provide redevelopment

BRAC —
4

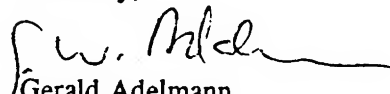
authorities sufficient flexibility to adapt to local conditions. We especially welcome the provision which authorizes the Assistant Secretary of Defense for Economic Security (ASD-ES) to waive requirements which are inconsistent and/or not appropriate for bases "well along in the disposal process." It would be helpful to more clearly define when such a waiver would be granted.

Third, the rule is unclear regarding the relationship of economic development conveyances to other public benefit conveyances. While we recognize the legitimate need for rapid job creation and the economic revitalization of base closure communities, it is important to note the existence throughout the nation of other needs (recreation, conservation, historic preservation, education, etc.) which may be of equal or greater importance than new economic development. These needs should not be overlooked. Accordingly, specific language should be added to Section 91.7 paragraph (e) (7) stating that the economic development conveyance will not supersede the use of other public benefit transfers. Moreover, language describing the local redevelopment authority's discretion in the disposal of property obtained through an economic development conveyance should also be provided.

Finally, the rule fails to define the essential components of a redevelopment authority as well as the extent of the authority's powers. At times the rule implies that the role of the redevelopment authority is limited to that of a planning body, while at others it suggests that it also serve as a landholding agency. To address this concern, Section 91.3 paragraph (g) should be amended to include a description of what constitutes a local redevelopment authority and a list of the types of local public bodies that might be recognized to fill this role. Language should also more clearly define the discretionary power of the local redevelopment authority regarding the reuse of surplus properties.

In summary, Openlands Project believes that the interim rule represents a positive step toward improving the existing disposal process. Although the rule makes a number of badly needed improvements, we continue to have several serious concerns in a number of crucial areas. Among them are the need to: (1) recognize regional input in cases where base resources are of greater than local significance; (2) eliminate the potential for confusion resulting from simultaneous screening procedures; (3) more clearly define circumstances in which requirements established under the interim rule would be waived for earlier (1988, 1991) base closures; (4) include explicit language stating that economic development conveyances will not supersede other public benefit conveyance authorities; and (5) more clearly define the essential components and powers of a local redevelopment authority. It is our hope that the rule can be revised in cooperation with impacted communities to address the concerns expressed above.

Sincerely,


Gerald Adelmann
Executive Director


Joyce O'Keefe
Policy Director



THE CITY OF
NOVATO
CALIFORNIA

900 Sherman Avenue
Novato, CA 94945
415/897-4311
FAX 415/897-4354

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Cynthia L. Murray
Mayor Pro Tem
Bernard H. Meyers
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Ernest J. Gray
Harry J. Moore

City Manager
Roderick J. Wood

DATE: July 1, 1994

TO: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

FROM: The City of Novato - Hamilton

SUBJECT: Comments on the Interim Rule - Implementing Title XXIX of
the National Defense Authorization Act for FY 94

Thank you for the opportunity to comment on the Interim Rule. Several representatives from the City of Novato attended the DOD Regional Outreach Seminar in San Francisco and found it worthwhile as to understanding the proposed rule. Following are the City of Novato's comments:

General Comments:

1. The federal base closure places the proverbial cart before the horse. The system as set up compels federal agencies, homeless and others providers under the McKinney Act, state, county, city and special districts to designate and request parcels of land, buildings, and structures before any physical, financial, environmental, code compliance, hazardous and toxic waste, and regulatory analysis has been conducted. This often forces these agencies and the local community into disagreement because proper analysis, planning, education, and consensus building has not been allowed to occur. This has been the experience of base closure efforts throughout the country and with bases in the Bay Area.

This process also does not allow these agencies to work with the community to determine if an integrated plan can be developed that serves the needs of all parties. In the case of Hamilton, the Coast Guard, Veterans Administration, Maritime Board, Travis Air Force Base, the many McKinney eligible providers that are known to be interested, the county, city, school district, community college district, and other districts have expressed interest in portions of Hamilton. Currently, there is no process at the local level to coordinate these requests. There is no process to see if through creative efforts a rational plan can occur. It is clear many of these agencies do not know or understand the infrastructures, code compliance, regulatory, physical, and environmental conditions of the property and requirements of federal, state, and local laws and regulations.

It is this process of blind confusion of grabbing at "free land" that is a legacy of the federal base closure process, and we believe explains the dismal failure of base closures for the last two decades. It is this process that has led to endless litigation, ballot initiatives, and special

July 1, 1994

legislation that has cost the public untold millions, perhaps billions if you consider the budget impacts on the Department of Defense from not being able to get rid of these bases.

The chance to correct some of these problems is by getting solid information, to all the parties as will be done through the reuse planning effort and by educating the community and eliminating unnecessary fears, and building a consensus to serve all needs.

- 1091-3
91.7C
2. Every major parcel of land with a base should be master planned prior to sale. This is especially true with property that has serious constraints or public controversy. I believe Hamilton would assuredly fall into this category as well as many other bases. There are serious constraints at Hamilton with existing improvements; sewer, water, roads, drainage, police, fire, paramedic services, parks and recreation, and others. Hamilton is certainly a controversial property. This drives the need, using any rational planning model, to develop a master plan or, in this case, a reuse plan for the entire property. Decisions should not and really cannot be made until you have reasonable and accurate information. This information base is the first order of business for the reuse plan. This information should be important to anyone proposing uses at Hamilton or other bases.

It is extremely difficult, if not impossible, to develop a comprehensive, well thought out, rational and effective master plan that takes all issues and concerns into consideration if the balance of the property has been precommitted to different uses. Those precommitted uses cannot be knowledgeable of reasonable alternatives that provide their needs while protecting others if decisions are made in a vacuum from the overall process. That is the case at Hamilton where federal, state, local agencies, and McKinney providers are being asked to precommit to their uses before any reuse planning has occurred. This has occurred at other bases and is the root cause of many of the problems in the reuse process at those bases. Planning should precede commitment or the time to master plan a property is before it looks like "Swiss cheese."

Hamilton has a legacy of its own. It is the longest base closure in the history of the United States, perhaps the world unless the Romans are still closing some bases. A great deal of the problems with Hamilton have been the failure to properly involve and educate the community on proposed reuse. If the community is not involved in a meaningful manner, educated on issues to allay undue fears and their concerns effectively and reasonably responded to and incorporated, there will likely be a strong, negative reaction.

- 1091-4
99.0
3. The condition of existing infrastructure, buildings and existing services is of paramount concern to most local agencies as the burden will ultimately be theirs.

July 1, 1994

It would not be prudent for any local agency to accept a developer or a deal made by the federal government that would bankrupt the local agency. We believe the desire to create economic development potential will not work unless the local agency first determines the appropriate land use entitlement. The federal government, developer, and the local residents need to know and California law requires issues to be reviewed and resolved prior to development occurring.

- 1090-5
910703L
4. The Interim Rule provides for informing communities, as early as possible, that the federal government will sell properties to stimulate job creation, economic conveyance or another public purpose. Again, this process totally excludes the interests of the local community. What if as in the case of Hamilton, the land is sold to a developer and when the developer comes to the local community, the developer discovers the plan is unacceptable locally. The process comes to a halt and the stage is set for a long battle as evidenced by Hamilton. Informing a local agency is inadequate, no land should be sold without local land use entitlements in place. Selling property to a developer or the highest bidder does not necessarily mean land use approvals will be granted by the local agency.

Specific Comments:

The news release providing a synopsis of the Interim Rule was used as the basis for responding to comments.

1. Interim Rule (page 3 paragraph 5): Appraisals will reflect the most likely future use of land consistent with local planning.

1091-6
89.0

Recommended Changes: Do not conduct appraisals until land use entitlements are in place.

Why: We have found federal agencies have minimum experience with local conditions and issues. Until land use entitlements are in place, the value of the property cannot be accurately known.

2. Interim Rule (page 4, paragraph 1): DOD will ask for expressions of interest from the private sector for developing the entire or a substantial portion of a closing base.

1091-1
91.70

Recommended Changes: Do not ask for expressions of interest until land use entitlements are in place.

Why: Until local land use entitlements are in place, the private sector does not know what the local jurisdiction will allow nor what requirements from federal, state, local, and other jurisdictions may be applied to use of the properties.

July 1, 1994

3. Interim Rule (page 4, paragraph 1): Any expressions of interest received by DOD will be shared with the respective local redevelopment authority. If after consulting with the local community, DOD decides to offer the property for sale, the local redevelopment authority will be promptly notified of the decision and may formally challenge the decision. If after considering the local redevelopment authority's viewpoint, DOD decides to proceed with the sale, potential bidders will be strongly encouraged to work with the local redevelopment authority so their proposals are compatible with the local redevelopment plan.

Recommended Changes: Determine local land use entitlements prior to any of the above activities.

Why: This process puts the cart before the horse: sharing expressions of interest, consulting with the local agencies, considering the local communities' interests, strongly encouraging bidders to work with local interest is meaningless to a local jurisdiction. The fact is the community must ultimately decide the benefits and liabilities of any proposal through its land use authorities. This should be done before the federal government sells the land to the highest bidder without considering the way local communities determine such matters. Economic development conveyance will be difficult for communities to assess as to benefits until detailed analysis is completed. In the case of a base like Hamilton, there are substantial liabilities and long-term maintenance concerns that would preclude the base from providing any type of feasible economic development. The base has been offered for \$1 to local jurisdictions in the past and not accepted due to these concerns. Detailed analysis is conducted during the land use entitlement process.

4. Interim Rule (page 5, paragraph 3): Leasing of real property does not seem to require environmental review.

Recommended Changes: Clarification if leasing does or does not require environmental review.

Why: Clarification.

A difficulty encountered with our current experience is that the base closure process is designed to be "one size fits all." There needs to be the ability to deal with issues specific to each base in a timely manner. Now it seems when issues are not part of the mainstream, there is not any one person who can make a decision. It would be helpful to have an organizational chart for who is in charge of what for each base. It takes months to get through the maze and at the end no one seems to know who will be the final decision maker or arbitrator.

Office of Assistant Secretary of Defense for Economic Security

Page 5

July 1, 1994

In conclusion, we believe our experience with Hamilton has given us insight on what can go wrong with a base closure and what can make it work more smoothly. We would appreciate your consideration of the recommended changes and would be glad to meet with any interested parties to provide additional information.

The Multi-Agency Board which represents the Hamilton Reuse Planning authority will be reviewing this letter on July 5, 1994, and may submit comments that will be a part of this letter.

Sincerely,

A handwritten signature in cursive script that reads "Roderick J. Wood".

Roderick J. Wood
City Manager

RJW:VG:mmc

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

1092 7/19

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Habitat For Humanity Guam Inc.
(Activity/Location/Community/Installation/Group)

Page 16157
Column 2
Paragraph Part. 91

Recommended Changes:

Why:

Name: Habitat For Humanity - Guam.
Address: MR. PETER E. Gill - President
P.O. Box 12623
Phone: Tamuning, Guam 96931

Tel - 671-477-5945

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

From:Habitat for Humanity

Page: 16157

Column: 2

Paragraph:part 91

Recommended Changes:

1092-1
94-2

The government should return the bases to their respective committees in a safe and "whole" manner. We are recommending that the entire section 91 and concept of transferring the burden of environmental clean-up to the "buyer" be deleted.

Why:

As the primary polluter the government has the responsibility to clean up the mess. Super funds monies have been available for these efforts. As a larger buyer of clean-up services, the government is better positioned to purchase and monitor clean-up activities. Experienced, under staffed, and under funded reuse committees are likely to falter in such undertaking. As amended Section 91 will also transfer large amounts of assets into the hands of a few individuals and corporation who can " demonstrate to the Secretary concerned the ability to adequately perform all required environmental clean-up, waste management and environmental compliance activities. "-page 16157-

It is unlikely that local firms on Guam will meet this criteria, resulting in the sale of NAS assets to off-island interest. We are against the amended Section 91.

Habitat for Humanity-Guam
Mr. Peter E. Gill
President
P.O. Box 22511
GMF Barrigada, Guam 96921
Tel: (671) 477-5945
Fax: (671) 472-9747

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

FILE
Helen
Forebeck

1093 1/19

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Bay Planning Coalition, a membership, non-profit organization
(Activity/Location/Community/Installation/Group) which advocates a reasonable,
prudent and balanced planning and
permit process for uses and
activities in the San Francisco
Estuary and shoreline areas.
Page 16124 & 16130-31
Column 3 & 2-3 & 1
Paragraph summary & (d) (1-3) & (4)
(175 shoreline business, maritime
industry, builders, local gov't)

1093-1 91.7D
Recommended Changes: 1) direct the Department of Defense to conduct all
property disposals in accordance with and in support of the community
reuse plan; and 2) direct the Department of Defense, in their review
of the Interim Rules, to work closely with community leaders and
community based organizations to better balance the needs of the
Department with the needs of the communities.

1093-2

89.0

Why: 1) The Interim Rule encourages Department of Defense agents to
put base property up for sale to private parties before the land
becomes available to communities. This process of offering a base
for sale is counterproductive to the very thorough, consensus-building
process that the Department has encouraged for local base reuse
planning. The rules encourage piecemeal development, discourage
planning and reduce economic return to both the local communities
and the federal government in the long run.

Name: Ellen Johnck, Executive Director
Address: World Trade Center, Suite 303
San Francisco, CA 94111

Phone: (415) 397-2293

(NOTE: LIMIT TO 1 COMMENT PER PAGE)



1094 7/18

JUN -6 5:12:51

CITY OF PHILADELPHIA

OFFICE OF THE MAYOR
ROOM 215 CITY HALL
PHILADELPHIA, PENNSYLVANIA 19107-3295
(215) 686-2181
FAX (215) 686-2170

EDWARD G. RENDELL
MAYOR

June 24, 1994

The Honorable William Perry
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Perry:

As you are aware, the 1991 Base Closure and Realignment Commission's decision to close and realign the Philadelphia Naval Base and Shipyard will result in severe economic dislocation in the City and the region. As one of the largest Navy facilities to be closed by the BRAC process, achieving the goals of the City's Naval Base Conversion Initiative - primarily the creation of economic growth and employment opportunities for displaced workers - is a significant challenge.

The President's Five Point Program, outlined last July, is widely recognized as an unprecedented proposal designed to facilitate economic development in communities affected by base closures. Unfortunately, the positive impact of the Five Point Program, which was included as part of the National Defense Authorization Act for Fiscal Year 1994 (the Pryor Amendments), has been substantially diminished by the implementing regulations which were recently issued by the Department of Defense.

Specifically, the Interim Rule emphasizes disposal of the facilities through direct advertisement and sale to the private sector over transfer of the property to the local redevelopment authority. This approach will be detrimental to local government efforts to effectively plan and reuse these facilities so that net economic growth and job opportunities will be created. This deference to the Department of Defense over the local government is a recurring theme in the Pryor regulations as currently proposed.

13715

The Honorable William Perry
June 24, 1994
Page 2

Other examples of this disturbing theme include the unilateral authority provided to DOD to remove certain broad categories of personal property from closing installations. Much of the personal property is necessary for successful reuse; at a minimum DOD should be required to notify the local government in advance as to what is being removed so that reuse plans can be adjusted accordingly. In addition, the regulations allow the disposing military department to offer sale of real property regardless of whether there has been an expression of interest. If the private sector does not respond to the advertisement of a particular property, then a ready market does not exist; the regulations should not give DOD the authority to circumvent the local redevelopment authority and essentially attempt to "create a market."

The City has prepared formal comments on the Interim Final Rule, which were submitted to the Department of Defense this week, a copy of which is enclosed. I would like to request that DOD be directed to: (1) rewrite the Interim Final Rule based on the comments received and on the intent of the Pryor legislation as well as the President's Five Point Program, and (2) issue a revised Interim Rule, as opposed to a Final Rule. This would provide communities with the opportunity to review the revised regulations to ensure that issues critical to reuse planning are adequately addressed prior to final implementation of the regulations.


1094-1
89.0

In addition, given the unique directives of the BRAC Commission regarding the Philadelphia Naval Complex, it is imperative that the Pryor amendments also apply to the Shipyard property (which is to be retained by the Department of the Navy for emergent use). Only with the economic development incentives of the Pryor legislation can Philadelphia generate sufficient economic growth to provide comparable employment opportunities for the 5,300 workers who will be laid off by the end of 1995.

1094-2
89.0

Thank you for your consideration of these issues.

Sincerely,


EDWARD G. RENDELL
MAYOR

EGR/se

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section 90.3 - Definitions.

Page: 16126

Column: 1

Paragraph: (a)

1094-3

91.3B

Recommended Changes:

From: "Closure. All missions of the base have ceased or have been relocated. All personnel (military, civilian, and contractor) have either been eliminated or relocated, except for personnel required for caretaking and disposal of the base or personnel remaining in authorized enclaves."

To: (Add): "All base property (including buildings, other facilities and equipment) retained by a Military Department for 'emergent use,' but underutilized and available for leasing (as agreed upon by the Commander of the base in question and the local redevelopment authority) shall be treated as "closed" for the purposes of these regulations."

Why: To facilitate the creation of employment opportunities for a local community, the benefits of the Pryor regulations should apply to retained, but not utilized, property, as well as excessed property. If the distinction between retained and excessed property remains intact, the local redevelopment authority will be forced to develop two separate strategies for reuse of the properties.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (a) - Real Property Screening.

Page: 16128

Column: 3

Paragraph: (8)

1094-4
a1.7A8

Recommended Changes:

From:

"Screening of real property with State and local government agencies shall take place concurrently with McKinney Act screening."

To:

(ADD) The Department of Defense will notify the local redevelopment authority within 5 days of receiving a written expression of interest from a State or local government agency or a homeless provider.

Why:

Should State, other local agencies or homeless providers express interest in the real property of the closing military installation, notification to the local redevelopment authority is necessary to allow incorporation of the proposed reuse into the planning process.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (b) - McKinney Act Screening.

Page: 16129

Column: 3

Paragraph: (5)

1094-2

91.7B5

Recommended Changes:

From:

"If a provider indicates an interest in a listed property, it shall have an additional 90 days after submission of its written notice of interest to submit a formal application to HHS, a period which HHS can extend."

To:

If a provider indicates an interest in a listed property, it shall have an additional 90 days after submission of its written notice of interest to submit a formal application to HHS, a period which HHS can extend for a period of no longer than 60 days.

Why:

The current language allows HHS to extend the homeless provider application period for an unspecified time period. So that such extensions do not unreasonably delay the conclusion of McKinney screening and the local government planning process, the extension period should be no longer than sixty days.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (d) - Jobs-Centered Property Disposal

Page: 16130
Column: 3
Paragraph: (d) (2)

1094-6
91.702

Recommended Changes:

From: "The Military Departments should identify properties with potential for rapid job creation and begin, as soon as possible, but not later than completion of the new expedited McKinney Act screening...an appraisal or other estimate of the property's fair market value.

To: (ADD) "Potential candidates for Jobs-Centered Property Disposal will be limited to properties for which prior, and documented interest from the private sector has been expressed to either the local government or the disposing Military Department.

Why: No specific criteria is provided for the process by which the disposing Military Department will determine whether a particular military installation is a candidate for rapid job creation.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (d) - Jobs-Centered Property Disposal

Page: 16131

Column: 1

Paragraph: (4)

1094-7
91.704

Recommended Changes:

From: "A few high value installations for which a ready market apparently exists may, nevertheless, not have generated any expressions of interest during the allotted 6 month period....In these cases, the Military Departments, based on completed appraisals or other estimates of the fair market value, shall inform redevelopment authorities that the property is expected to be offered for sale and an economic development conveyance should not be anticipated..."

To: Paragraph 4 should be eliminated in its entirety.

Why: If the private sector does not respond to public advertisements of a particular property with an expression of interest, then a "ready market" for the property does not exist. If there is no expression of interest from the private sector during the six-month advertisement period, the property should be made available for proposed economic development conveyances by the local redevelopment authority.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion.
1650 Arch Street, 19th Floor.
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (d) - Jobs-Centered Property Disposal

Page: 16131

Column: 1

Paragraph: (d)

1094-3
91.703 II

Recommended Changes:

From: "If the Military Department decides that an expression of interest received demonstrates the existence of a ready market, the prospect of job creation, and offers proceeds consistent with the range of estimated fair market value, it may decide to offer the property for sale."

To: "If the Military Department decides that an expression of interest received demonstrates the existence of a ready market, the prospect of job creation, and the potential to achieve estimated fair market value, it may decide to offer the property for sale, only if the local redevelopment authority certifies that this approach is consistent with the reuse goals for the site. In addition, prior to acceptance of a private offer to purchase, the reuse must be determined by the local redevelopment authority to be consistent with the community reuse plan."

Why: The interim rule provides the disposing Military Department with the authority to dispose of property in a way which may be counterproductive to local economic development goals. Jobs-centered property disposal assessment is conducted prior to consideration of disposal to the redevelopment authority. Given the intent of President Clinton's 5-point plan to revitalize communities facing base closures, the local community/reuse plan, not the private sector, should be the first mechanism by which property is offered for transfer after the screening process. At a minimum, however, the local redevelopment authority must be a partner in the decision to lease or transfer title to a private agent.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (e) - Economic Development Conveyances

Page: 16131

Column: 3

Paragraph: (e)(1)

10941-9

91.7E1

Recommended Changes:

From: "Generally, installations will be conveyed at no initial cost with a recoupment provision that shall permit DoD to share in any future profits should the base be later leased or sold. Bases in rural areas shall be conveyed under this authority with no recoupment if they meet the standards in paragraph (e)(6)."

To: "...Bases in rural and urban areas shall be conveyed under this authority with no recoupment if they meet the standards in paragraph (e)(6)."

Why: The interim rule states that closing facilities in rural areas are of "particular concern," and notes that recoupment is not required when the closure "will have a substantial adverse economic impact on the economy of the local community and on the prospect of its economic recovery from the closure." Due to numerous factors, including tax rates, the migration of businesses to suburban areas, and the resulting high unemployment rates, many urban areas are facing significant economic problems. (For example, Philadelphia has lost 263,000 jobs and approximately 30% of its tax base during the past twenty-five years.)

In 1978, President Jimmy Carter issued an Executive Order requiring the federal government to give preference to cities whenever it considered relocating federal agencies or facilities. President Clinton has made similar statements emphasizing his view that cities should be favored in federal facility location or relocation decisions.

Given the Administration's recognition of the plight of cities, the regulations should allow urban areas to be exempted from the profit sharing clause provided they meet the "adverse economic impact" criteria.

Name: Terry Gillen

Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102

Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (e) - Economic Development Conveyances

Page: 16131
Column: 3
Paragraph: (e) (4)

1094-10
91,7E4

Recommended Changes:

From: "Before making an economic development conveyance of real property, an appraisal or other estimate of the property's fair market value shall be made based on the proposed reuse of the property."

To: "Before making an economic development conveyance of real property, an appraisal or other estimate of the property's fair market value shall be made to determine value of the property given existing zoning regulations or zoning regulations as proposed by the Community Reuse Plan, current market conditions, current infrastructure conditions (to include buildings and utilities systems) as well as current environmental conditions."

Why: It is not reasonable to anticipate the level of local investment which may be required to achieve the "proposed reuse" of the property.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (e) - Economic Development Conveyances

Page: 16131
Column: 3
Paragraph: (e) (4)

1094-11
91,784

Recommended Changes:

From: "Before making an economic development conveyance of real property, an appraisal or other estimate of the property's fair market value shall be made based on the proposed reuse of the property."

To: "Before making an economic development conveyance of real property, an appraisal or other estimate of the property's fair market value shall be made to determine value of the property given existing zoning regulations or zoning regulations as proposed by the Community Reuse Plan, current market conditions, current infrastructure conditions (to include buildings and utilities systems) as well as current environmental conditions.

If the fair market value of the property is determined to be negative, the disposing Military Department, in consultation and with approval of the local redevelopment authority, shall either: 1) upgrade the property to a minimum level of \$ 1 fair market value; or 2) reimburse the local redevelopment authority for the cost of upgrading the property to that level.

Why: It is not reasonable to anticipate the level of local investment which may be required to achieve the "proposed reuse" of the property.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (f) - Profit Sharing.

Page: 16132
Column: 2
Paragraph: (f) (2)

1094-12
91-7F2

Recommended Changes:

From: "In the absence of a determination by the Secretary of the Military Department concerned that a different division of the net profits is appropriate because of special circumstances, the net profits shall be shared on a basis of a 60 percent to the local redevelopment authority and 40 percent to the Department of Defense.

To: "...the net profits shall be shared on a basis of a 60 percent to the local redevelopment authority and 40 percent to the Department of Defense. **The government will not begin to receive recoupment fees for the lease or title transfer of a particular building or facility until net profits are achieved for the entire site.**"

Why: The term "net profit" should be evaluated based on all the local investments to the entire property. For example, a particular building may be showing a profit because it has reached full tenant occupancy, the local redevelopment authority is likely to be carrying the cost of initial capital improvements as well as maintenance of the entire site for many years.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (f) - Profit Sharing.

Page: 16132
Column: 2
Paragraph: (f) (4) (iii)

1094-2
91.7F4V

Recommended Changes:

From: "The annual report required by the GSA provision will be deleted, and a clause requiring notification to the disposing Military Department of sales or leases will be substituted. The notice of sale or lease will be accompanied by an accounting or financial analysis indicating net profit, if any, from a sale, or the estimated annual profit from a lease."

To: "The annual report required by the GSA provision will be deleted, and a clause will be inserted requiring that the local redevelopment authority will provide the disposing Military Department with an annual notification of individual sales and lease transactions, to include accounting or financial analysis of net profit potential, for the entire site."

Why: Requiring notification and analysis per transaction would place an additional bureaucratic burden of community reuse efforts, and would hinder "fast-track" occupancy and job growth.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (f) - Profit Sharing.

Page: 16132
Column: 2
Paragraph: (f) (4) (iv)

1094-14
91.7F-11 IV

Recommended Changes:

From: "In calculating the amount of any net profit from a sale or lease, the local redevelopment authority may include:

- (A) Capital costs, as provided in 41 CFR 101-47.4908(b).
- (B) Direct and indirect costs related to the particular property and transaction that are otherwise allowable under 48 CFR part 31 including the allocable costs of operation of the local redevelopment authority with regard to that property."

To: (Add): "Specific examples of allowable costs include demolition, infrastructure improvements, costs incurred while bringing utility systems into compliance with state and local codes, care and maintenance costs, off-site capital improvements such as entry road expansion, marketing, and property management expenses."

Why: Using federal procurement regulations as the basis for calculating allowable costs provides inadequate guidance to communities. Specific examples should be included, as local communities are not experts on these regulations, and would be at a decided disadvantage in negotiations with the disposing Military Department.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (f) - Profit Sharing.

Page: 16132
Column: 3
Paragraph: (4) (iii)

1094-15
91.7F4 III

Recommended Changes:

From:

"The deed provision will forbid "straw" transactions (sales or leases to a cooperating party at a nominal price), transactions at other than arm's length, and other devices designed to circumvent the Government's recovery of its share of the net profits."

To:

As required for economic development and job creation, the deed provision will allow "straw transactions."

Why:

Because of existing environmental and infrastructure conditions at most former military installations, "straw" transactions are necessary to interest private companies in these properties. The purpose of "straw" transactions is not to avoid profit-sharing with the Federal Government, but to jump-start economic development and job creation.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (g) - Leasing of Real Property.

Page: 16133
Column: 1
Paragraph: (g)

1094-6
91.762

Recommended Changes:

From: "The Secretaries of the Military Departments are authorized by Pub. L. 103-160, section 2906 to lease real and personal property at closing or realigning bases for consideration of less than the estimated fair market value..."

To: (Add:) "To encourage interim use of real property, the disposing Military Department should expedite its process in order to complete lease negotiations within three months of a request for the local redevelopment authority. Once a form of lease has been developed, leases for specific buildings should be processed by the disposing Military Department within 30 days."

Why: The intent of the Pryor legislation as well as the President's community revitalization plan is to generate economic growth and employment opportunities. A lease agreement must be completed before interim use can begin. It is, therefore, in the best interest of the displaced workers, the disposing Military Department and the local redevelopment authority, to expedite lease negotiations.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (h) - Personal Property

Page: 16133

Column: 2

Paragraph: (2)

1094-17
91-7H2

Recommended Changes:

From:

"The exempted categories of personal property listed in paragraph (h) (5) of this section shall not be subject to review by the community."

To:

The exempted categories of personal property listed in paragraph (h) (5) of this section shall be subject to the following notification procedures to the community: The base commander shall issue a written notification to the local redevelopment authority outlining the items of equipment to be moved, the location to which they will be transferred and a suitable justification as to why the personal property is not being made available for community reuse. The Base commander can move or transfer the equipment the sooner of three weeks from the date of notification or when the community provides written acceptance of the notice.

Why:

The interim rule provides unilateral authority for DoD to remove certain broad categories of personal property from Bases. At a minimum, DoD should be required to notify communities in advance as to what is being removed and provide suitable justification as to why it is not being made available to the community for reuse.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (h) - Personal Property

Page: 16133

Column: 2

Paragraph: (3)

1094-13
91.7H3

Recommended Changes:

From:

"Based on these consultations, the base commander is responsible for determining the items or category of items potentially enhancing the reuse of the real property and needed to support the redevelopment plan."

To:

Based on these consultations, the base commander and the local redevelopment authority are jointly responsible for determining the items or category of items potentially enhancing the reuse of the real property and needed to support the redevelopment plan.

Why:

The interim rule provides unilateral authority for Base Commanders to determine which personal property enhances reuse potential. Community input is required so that Base Commanders have current and accurate information regarding the community's redevelopment plan. As new information becomes available, such as previously unidentified companies who indicate interest in locating on the Base, the community's plans change and evolve (often daily).

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (h) - Personal Property

Page: 16133

Column: 3

Paragraph: (4)

1094-12
91.3H4

Recommended Changes:

From:

"Personal property not subject to the exemptions in paragraph (h) (5) of this section shall remain at a closing or realigning base until one of the following time periods expire (whichever comes first): . . ."

To:

Personal property not subject to the exemptions in paragraph (h) (5) of this section shall remain at a closing or realigning base until:

(i) the community completes a personal property plan which identifies property required for reuse and presents the community's strategy for taking possession of such property; or

(ii) Six months after the date of closure or realignment of the installation.

Why:

The community reuse plan for a Base identifies the community's strategy for the reuse of real property, not personal property. Most often, the professionals preparing reuse plans on behalf of the community are experienced in real estate or physical planning and possess little or no credentials to evaluate personal property. As such, most communities need the benefit of additional specialized expertise or additional time to determine (on the basis of the reuse plan) which types of personal property will be valuable to the community.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (h) - Personal Property

Page: 16133

Column: 3

Paragraph: (5)

1094-70
91-745

Recommended Changes:

From:

"Personal property may be removed without regard to these time periods upon approval of the base commander, or higher authority within the Military Department, and after notice to the local redevelopment authority, if the property: . . ."

To:

Personal property may be removed without regard to these time periods upon approval of the base commander, or higher authority within the Military Department, and, pursuant to the (proposed) written notification and acceptance procedures identified in paragraph (2) of this section, by the local redevelopment authority, if the property: . . .

Why:

The interim rule provides unilateral authority for DoD to remove certain broad categories of personal property. At a minimum, DoD should be required to notify communities in advance as to what is being removed and provide suitable justification as to why it is not being made available to the community for reuse.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Action (h) - Personal Property

Page: 16134

Column: 2

Paragraph: (6)

1094-21
91-7H6

Recommended Changes:

From:

"If the real property is transferred at or near estimated fair market value, the value of the personal property shall be included in the estimated fair market value of the real property. If the property is conveyed separately from the real property, the value of the personal property shall be that at which it is carried on the installation's property account or estimated fair market value as agreed to between the parties at the time of transfer."

To:

If the real property is transferred at or near estimated fair market value, the value of the personal property may or may not be (as agreed to by the community and the Base Commander) included in the estimated fair market value of the real property. If the property is conveyed separately from the real property, the value of the personal property shall be zero or that which is agreed to between the parties at the time of transfer.

Why:

As we understand it, the intent of the interim rule is to provide **flexibility** to Base commanders and other military personnel in assisting communities with reuse of installations. The interim rule, unless modified, does the opposite by prescribing the terms by which the transfer of personal property is to occur.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (h) - Personal Property

Page: 16134

Column: 2

Paragraph: (7)

1094-22
91.747

Recommended Changes:

From:

"In this context, similar means the original and the proposed substitute item are designed and constructed for the same specific purpose."

To:

In this context, similar means the original and the proposed substitute item are designed and constructed for the same specific purpose and are of comparable remaining useful life, technological capability and condition.

Why:

For communities to replace the economic activity lost by the closing of a military installation, the community must be left with a reusable asset for reuse. Currently, the interim rule allows the Military Departments to "cherry pick" technologically advanced or new equipment from closing bases.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (i) - Minimum level of maintenance and repair
to support nonmilitary purposes.

Page: 16134

Column: 3

Paragraph: (1)

102-23
91.711

Recommended Changes:

From:

"This section provides procedures to protect their condition while the redevelopment plan is being put together."

To:

This section provides procedures to protect their condition while the redevelopment plan is being **implemented**.

Why:

The completion of a community's reuse plan does not coincide with the completion of a community's actual reuse of the installation. For that reason, DoD cannot turn over maintenance of installation assets to the community at the conclusion of the reuse planning process. Instead, the reuse plan can form the basis for mutual agreement between DoD and the community regarding the proper timeframe for transfer of title to the property and maintenance responsibilities.

Name: Terry Gillen

Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102

Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion

Re: Section (i) - Minimum level of maintenance and repair
to support nonmilitary purposes.

Page: 16134
Column: 3
Paragraph: (2)

10/11/24
91, FI 2

Recommended Changes:

From:

"Public Law 103-160, section 2902 states that the Secretary may not reduce the level of maintenance and repair of facilities or equipment at the installation below the minimum levels required to support the use of such facilities or equipment for nonmilitary purposes, except when the Secretary of the Military Department concerned determines that such reduction is in the National Security interest of the United States. This requirement remains in effect until one of the time periods in paragraph (h) (4) of this section has expired."

To:

This requirement remains in effect until mutual agreement is reached between the community and the Military Department concerned regarding the turnover of maintenance responsibilities from the Military to the community. In no case shall this time exceed six months after the date of closure or realignment.

Why:

Base Commanders must have limited flexibility in deciding when to "turn over the Keys" to local communities. The reuse plan adopted by a community can form the basis for mutual agreement between DoD and the community regarding the proper time to transfer title to the property as well as maintenance responsibilities.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

COMMENTS ON THE INTERIM RULE

Implementing Title XXIX of the
National Defense Authorization Act for FY94

From: City of Philadelphia, Office of Defense Conversion
Re: Section (i) - Minimum level of maintenance and repair
to support nonmilitary purposes.

Page: 16134
Column: 3
Paragraph: (3) (ii)

1094-25
91.713II

Recommended Changes:

From:

"Where agreement cannot be reached [between the Military Department and the local community], the Secretary of the Military Department concerned shall determine the level of maintenance required. In no case shall the level of maintenance and repair:

(i) . . .

(ii) Require any improvements to the property to include construction, alteration, or demolition, except that required by environmental restoration."

To:

(ii) Require any improvements to the property to include construction, alteration, or demolition, except that which is required by environmental restoration or other improvements mutually agreed to by the Military Department concerned and the community."

Why:

There may be instances where reuse of an existing building or property requires the type of improvements which can be completed jointly by the community and Military Department prior to the closure. Base Commanders should not be prohibited from completing these improvements as long as no undue financial burden results on the Military Department concerned.

Name: Terry Gillen
Address: City of Philadelphia, Office of Defense Conversion
1650 Arch Street, 19th Floor
Philadelphia, PA 19102
Phone: 215-686-3643

Jeffry G. Price

Attorney-at-Law

15 South Wabash Street

Peru, Indiana 46970

Office (317) 472-3339

Fax No. (317) 472-4246

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July 11, 1994

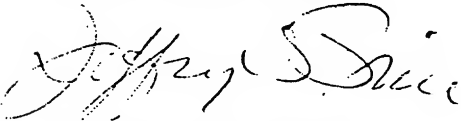
Office of Assistant Secretary of
Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

Ladies and Gentlemen:

Please be advised that I am the attorney for the Grissom
Redevelopment Authority, the organization concerned with
redevelopment of Grissom Air Force Base.

Enclosed please find Comments on the Interim Rule for your
consideration.

Very truly yours,



Jeffry G. Price
JGP:cb

Enc.

cc: F. Barton, OEA (by FAX)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Grissom Redevelopment Authority (Grissom Air Force Base)
(Activity/Location/Community/Installation/Group)

Page 16130
Column 2
Paragraph (d) (1)

Recommended Changes: "The procedures described below generally apply to to 1993 and 1995 base closures and may ~~not~~ apply to 1988 and 1991 closures which may be well along in the disposal process."

ADD: "Not later than six (6) months after the date of closure or realignment, the Military Department shall advise the local redevelopment authority whether the new property disposal process described in this section and in Paragraphs (e) and (f) of this section will be applied."

Why: Many of the 1988 and 1991 closures may wish to request an economic development conveyance. Each needs to know, as soon as possible, if such conveyance is available.

Name: Jeffry G. Price
Address: Attorney at Law
15 South Wabash St.
Peru, IN 46970

Phone: 317/472-3339

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Grissom Redevelopment Authority (Grissom Air Force Base)
(Activity/Location/Community/Installation/Group)

Page 16130
Column 3
Paragraph (d) (2)

Recommended Changes: "The Military Departments - ADD: In consultation with the local redevelopment authority -- should identify properties with potential for rapid job creation and begin, as soon as possible, but not later than completion of the new expedited McKinney Act screening (paragraph (b) of this section), an appraisal or other estimate of the property's fair market value."

Why: Since the Military Departments are generally in the business of security and defense, it seems unlikely that they are particularly equipped or expert in economic development. In particular, it seems unreasonable to expect the Military Departments to be able to identify properties with potential for rapid job creation. On the otherhand, that is one of the particular reasons that local redevelopment authorities have been established concerning closing or realigned bases. Therefore, the recommended change creates a partnership between the local redevelopment authority and the Military Department in identifying properties with potential for rapid job creation.

Name: Jeffry G. Price
Address: Attorney at Law
15 South Wabash St.
Peru, IN 46970

Phone: 317/472-3339

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
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Washington, DC 20301-3300

From: Grissom Redevelopment Authority (Grissom Air Force Base)
(Activity/Location/Community/Installation/Group)

Page 16131 & 16132
Column 3 and 1 (of 16132)
Paragraph (e) (4)

Recommended Changes: "The Military Departments shall consult with the local redevelopment authority on appraisal assumptions, guidelines and on instructions given to the appraiser, ~~but shall be fully responsible for completion of the appraisal.~~"

ADD: "Upon request from the local redevelopment authority, the Military Departments shall furnish, promptly, written instructions concerning said appraisal. The local redevelopment authority may submit an appraisal, in accordance with said instructions, to expedite a request for economic development conveyance."

Why: The local redevelopment authority should be permitted to assist the Secretary in obtaining the appraisal. Such self help should be encouraged, since the Secretary's task is reduced.

Name: Jeffry G. Price
Address: Attorney at Law
15 S. Wabash St.
Peru, IN 46970

Phone: 317/472-3339

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

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Washington, DC 20301-3300

From: Grissom Redevelopment Authority (Grissom Air Force Base)
(Activity/Location/Community/Installation/Group)

Page 16132
Column 1
Paragraph (e) (6)

Recommended Changes: ADD: "The local redevelopment authority may submit evidence to support a determination of adverse impact upon the economy of the local communities. The Secretary shall furnish instructions, upon request, as to what evidence will be considered in making said determination."

Why: In order to expedite a request for economic development conveyance, the local redevelopment authority should be permitted to submit evidence in support of its request. If the Secretary will furnish the redevelopment authority instructions as to what will be considered in making that determination, the local redevelopment authority can help itself and expedite the process. This should also speed up the Secretary's determination.

Name: Jeffry G. Price
Address: Attorney at Law
15 South Wabash St.
Peru, IN 46970

Phone: 317/472-3339

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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From: Grissom Redevelopment Authority (Grissom Air Force Base)
(Activity/Location/Community/Installation/Group)

Page 16132
Column 2
Paragraph (e) (7)

Recommended Changes: "In cases where the new property disposal process is not appropriate, ~~the Secretary's concerns shall~~ -- ADD: "The local redevelopment authority may -- request a waiver from the ASD (ES) for proceeding with the disposition of the property."

Why: The local redevelopment authority is in the best position to determine whether the new property disposal process is inappropriate for its particular base. Therefore, the waiver request to the ASD (ES) should come from the local redevelopment authority, not the Secretary concerned.

Name: Jeffry G. Price
Address: Attorney at Law
15 S. Wabash St.
Peru, IN 46970

Phone: 317/472-3339

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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(Activity/Location/Community/Installation/Group)

Page 16132
Column 1
Paragraph (e) (6)

Recommended Changes: ADD: "The Secretary concerned shall furnish, upon request, written instructions as to the form and nature of evidence to be considered in determining whether the Base, in question, is rural. To expedite a request for economic development conveyance, the local redevelopment authority may submit such evidence in support of a determination that the Base in question is rural."

Why: The local redevelopment authority should be allowed to furnish the Secretary with proof that its request for economic development conveyance concerns a "rural" Base. To expedite its request, the authority should be allowed to submit evidence in support of that determination. Therefore, the Secretary should provide direction for such evidence. As a result, the process is expedited.

Name: Jeffry G. Price
Address: Attorney at Law
15 South Wabash St.
Peru, IN 46970

Phone: 317/472-3339

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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From: Grissom Redevelopment Authority (Grissom Air Force Base)
(Activity/Location/Community/Installation/Group)

Page 16132
Column 1
Paragraph (e) (5)

Recommended Changes: ADD: "The Secretary of the Military Department shall furnish, upon request, instructions concerning evidence in support of elements (iii) and (iv). Such instructions will expedite the economic development conveyance requested.

Why: The local redevelopment authority should be encouraged to provide any and all information necessary for the Secretary of the Military Department to consider its request for an economic development conveyance. The redevelopment authority can help itself, in its request, with more specific direction from the Secretary.

Name: Jeffry G. Price
Address: Attorney at Law
15 South Wabash St.
Peru, IN 46970

Phone: 317/472-3339

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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Forward comments to: Office of Assistant Secretary of Defense for Economic Security
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Washington, DC 20301-3300

From: Grissom Redevelopment Authority (Grissom Air Force Base)
(Activity/Location/Community/Installation/Group)

Page 16133
Column 1
Paragraph (g) (2)

Recommended Changes: ADD: "(iii) that if the Department is caring for and maintaining the real property, which is the subject of the lease, then the elimination of such obligation is a reasonable substitute for the receipt of the estimated fair market rental value."

Why: The Military Department should be directed, by this Rule, to focus on their care and maintenance obligations. Even if the Department receives no money under a proposed lease, the elimination of the care and maintenance obligation reduces the Department's expenses, as well as rapidly placing the property back in private hands.

Name: Jeffry G. Price
Address: Attorney at Law
15 South Wabash St.
Peru, IN 46970

Phone: 317/472-3339

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
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From: Grissom Redevelopment Authority (Grissom Air Force Base)
(Activity/Location/Community/Installation/Group)

Page 16133
Column 1
Paragraph (g) (4)

Recommended Changes: ADD: "(v) The Military Departments shall establish an expedited procedure for processing all lease requests. Lease requests must be approved or disapproved within sixty (60) days.

Why: Absent extraordinary circumstances, leasing should be on the fastest possible track. It is suggested that sixty (60) days is a reasonable period of time in which the Department can react to a request for leasing of real property. Even if this period is considered too short, it is requested that a specific time line be set, by Rule, for the processing of lease requests.

Name: Jeffry G. Price
Address: Attorney at Law
15 South Wabash St.
Peru, IN 46970

Phone: 317/472-3339

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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(Activity/Location/Community/Installation/Group)

Page 16133
Column 2
Paragraph (h) (5) (i)

Recommended Changes: ~~"In-addition-to-this-authority-for-the-transferring-unit-or-function-to-remove-personal-property, the major command having jurisdiction over the installation (e.g., the Army's Forces Command or the Air Force's Air Combat Command), or the major claimant having jurisdiction over the installation (e.g., the Navy's U.S. Atlantic Fleet) also may remove property that is needed immediately and is indispensable to an organization under its jurisdiction at another installation for carrying out the organization's primary mission."~~

Why: The portion of the Rule concerning personal property begins: "Personal property located on closing Bases is often very useful to the redevelopment of the real property". This policy statement is defeated by allowing persons other than the Base Commander to remove personal property from the Base. This provision (quoted above) should be deleted in its entirety. The other provisions of the Rule on personal property are more than sufficient to meet the needs of the Military Department. This "loop hole" is dangerous and unnecessary.

Name: Jeffrey G. Price
Address: Attorney at Law
15 S. Wabash St.
Peru, IN 46970

Phone: 317/472-3339

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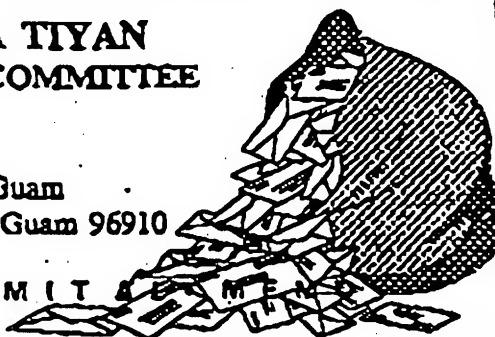
CONG. UNDERWOOD --- CONG. UNDERWOOD

002

KOMITEA PARA TIYAN NAS AGANA REUSE COMMITTEE

Government of Guam
P.O. Box 2950, Agana, Guam 96910

FACSIMILE • TRANSMIT



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RU

Date: JUN 20 1994

Time: _____

FAX #: _____

TO:

Madeleine Austin

Laland Betts

Eloise Baza

Joseph M. Borja

Eduardo J. Calvo

Ovidio "JR" Calvo

Frank Campillo

Fred Castro

Richard B. Cherry

Chuck Crisostomo

Alfredo Dungca

Raymond Lagunas

Dr. Jose Leon Guerrero

Peter J. Leon Guerrero

Vince Leon Guerrero

Tony Mariano

Antonio Matame

Cdr. James Poole

Toni Sanford

Duane Siguenza

Frank Taljeron

Tyrone Taltano

Capt. Timothy B. Thorson

FROM:

FRANCIS P.G. TOVES, Project Manager

NO of PGS: 14

SUBJECT:

Pryor Amendment Comments & Next Meeting Reminder

SENDER: _____

REMARKS:

1. Please review the attached draft comments on the Pryor Amendment's Interim Rules from our legal counsel. The comments on the Interim Rule will be placed on the agenda for our next meeting scheduled for Tuesday, June 28, 1994, at 3:00 PM in the Governor's Conference Room, Adelup.
2. Please call me should you have any questions.

Si Yu'os Ma'ase'

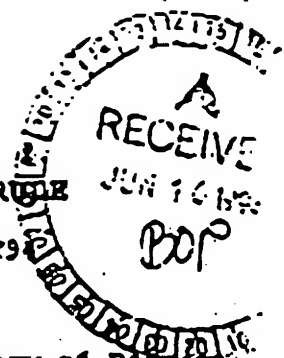
TELEPHONE (671) 472-4201/3

FACSIMILE (671) 477-1812

COMMONWEALTH NOW!

DRAFT

FORMAT FOR COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act For FY94



Forward comments to: Office of Assistant Secretary of Defense
for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: NAS AGANA BASE REUSE GROUP, KOMITEA PAKA TILIAN
(Activity/Location/Community/Installation/Group)

Page 16127
Column 3
Paragraph 91.3

Recommended Changes:

Add a new subsection defining "fair market value" as follows:

"Fair market value" is the most probable price that a property should bring in its current "as-is, where-is" condition, based on local zoning and its planned reuse (adjusted for the offsetting cost of public infrastructure to support the planned reuse) in a competitive and open market under all conditions requisite to a fair sale with the buyer and seller, each acting prudently and knowledgeably, assuming the price is not affected by undue stimulus. The effect of the base closure on the market shall be taken into account in estimating fair market value.

In § 91.3(j), add a sentence: "In the case of Guam, 'vicinity' means the entire island taken as a whole."

Why:

The rule's present definitions of "fair market value" are contradictory and fail to take local zoning and the cost of installing necessary infrastructure into consideration.

§ 91.3
Page 2

The present rule refers to counties and incorporated municipalities, which do not reflect local government organization on Guam. Under the present definition of "vicinity," Guam could not qualify for a no-consideration transfer of property to a rural community under § 91.7(e)(3)(6), even though Guam meets the definition of "rural community" under § 91.3(h).

Name: Komitea Para Tiyan

Address: Bureau of Planning (c/o Acting Director Mike Cruz)
Governor's Complex at Adalup
Agana, Guam 96910

Phone: 472-4201

FORMAT FOR COMMENTS ON THE INTERIM RULE
Implementing Title XXIX of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense
for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: NAS AGANA BASE REUSE GROUP, KOMITEA PARA TIYAN
(Activity/Location/Community/Installation/Group)

Page 16127
Column 3
Paragraph 91.4

Recommended Changes:

In § 91.4(a), add the words "and where such sales are in accordance with the community's reuse plan" to the end of the sentence. In § 91.4(c), add the words, "where appropriate," at the beginning of the sentence.

Why:

The community's reuse plan should be the basis of DoD property disposal decisions. Sharing net profits with DoD may not be appropriate with all base closures, such as the closure of NAS Agana in Guam, where the military's acquisition of about a third of the small island was attended by circumstances of unfairness.

Name: Komitea Para Tiyon
Address: Bureau of Planning (c/o Acting Director Mike Cruz)
Governor's Complex at Adelup
Agana, Guam 96910
Phone: 472-4201

91.4
ma/lzl

08/21/94 18:22

671 477 2387

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FORMAT FOR COMMENTS ON THE INTERIM RULE
Implementing Title XXIX of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense
for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: NAS AGANA BASE REUSE GROUP, KOMITEA PARA TIYAN
(Activity/Location/Community/Installation/Group)

Page 16128
Column 1
Paragraph 91.7(a)

Recommended Changes:

In § 91.7(a)(3), revise the final sentence to read: "Transfer of real property at closing bases between any Military Departments must be approved by the Assistant Secretary of Defense for Economic Security."

Why:

A senior DoD official should be responsible for ensuring that BRAC Commission decisions and the policies underlying the Pryor Amendment are not undermined by a transfer between Military Departments.

Name: Komitea Para Tiyan
Address: Bureau of Planning (c/o Acting Director Mike Cruz)
Governor's Complex at Adelup
Agana, Guam 96910
Phone: 472-4201

91.7a
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FORMAT FOR COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
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Forward comments to: Office of Assistant Secretary of Defense
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3D814, The Pentagon
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From: NAS AGANA BASE REUSE GROUP, KOMITEA PARA TIYAN
(Activity/Location/Community/Installation/Group)

Page 16130
Column 2
Paragraph 91.7(c)(1)

Recommended Changes:

The words "wherever possible" should be substituted for "generally."

Why:

The community's reuse plan should be the preferred alternative for NEPA analysis, as the President has directed.

Name: Komitea Para Tiyan
Address: Bureau of Planning (c/o Acting Director Mike Cruz)
Governor's Complex at Adelup
Agana, Guam 96910
Phone: 472-4201

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From: NAS AGANA BASE REUSE GROUP, KOMITPA PARA TIYAN
Activity/Location/Community/Installation/Group)

Page 16130-31
Column 2
Paragraph 21.7(d)

Recommended Changes:

Delete provisions authorizing Military Department to offer property for private sale over objections of community redevelopment authority, and to decide that a ready market for a property exists even when under the rule's own provisions no such market exists. No sales in contravention of the community's base reuse plan should be allowed.

Why:

The Pryor Amendment explicitly stated that the federal government can best contribute to community redevelopment of a base by making base property available to communities affected by such closures. Yet the rule provides that the Department of Defense shall dispose of property through quick commercial sales to private parties before making the property available to the community. The rule allows the Department to sell to private parties even when, by definition under the rule, there is no ready market for the property. Such sales will not yield more than a fraction of the property's actual value and will not create economic development or jobs. Property sales in violation of the community reuse plan will not generate the community support, infrastructure, zoning changes, and investment necessary for economic development. The minor financial benefit to the Department of Defense will be more than offset by the damage to the community's economic recovery.

The President's Five-Point Plan was intended to help communities affected by a base closure, by speeding up the process of turning bases over to communities and creating jobs and fostering economic development. The Plan represented a major break with past property

§ 91.7(d)

Page 2

disposal practices at closing bases, which had focused on maximizing proceeds from the sale of the property.

However, through the interim rule for "Revitalizing Base Closure Communities and Community Assistance," the Department of Defense (DoD) has created a process whereby the primary objective of property disposal decisions continues to be maximizing sale proceeds rather than helping the economic redevelopment of local communities.

~~The interim regulation creates an unjustifiable preference for commercial sales to the private sector, even when, under the regulation's own criteria, it appears that private developers will not be able to provide the necessary jobs and economic growth.~~ Under Section 91.7(d)(4), there are two preconditions for a quick sale to the private sector: (1) a high value property, and (2) a ready market. A "ready market" exists under Section 91.7(d)(4)(ii), when "offers to purchase at or near the estimated range of fair market value from the private sector covering all or most of the installation could be expected within 6 months of advertising the base for public sale."

Section 91.7(d)(4) states the military can decide there is a ready market even when by definition under § 91.7(d)(4)(ii) there is no ready market:

A few high value installations for which a ready market apparently exists, may, nevertheless, not have generated any expressions of interest during the allotted 6 month period. Regardless, such installations provide an opportunity for private sector rapid job creation which should be pursued. In these cases, the Military Departments . . . shall inform redevelopment authorities that the property is expected to be offered for sale and an economic development conveyance should not be anticipated.

The regulation provides no criteria for the military's conclusion that a market "apparently" exists despite its nonexistence under Section 91.7(d)(4)(ii) because there are no expressions of interest in the property. Elsewhere in the rules, in the context of discussing bases in rural areas, the regulation states, "No expression of interest . . . signifies that public or private developers will not be able to provide jobs and economic growth sufficient to provide timely recovery from closure" 32 CFR §91.7(e)(6). The fact that the regulation authorizes a private

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§ 91.7(d)

Page 3

sale even where by definition a private sale cannot provide economic recovery illustrates the extent to which the proposed regulation is designed to maximize sale proceeds even at the expense of the local community's economic recovery.

Although the relative priority of public benefit conveyances and commercial sales to private interests is not clear from the text of the rule, Appendix A to the rule gives commercial sales a priority over public benefit conveyances. The only way the community can maintain its priority over commercial interests is to assert its priority under the 1949 Property Act, which necessarily entails paying fair market value. 40 U.S.C. §484(e)(3)(H). Communities which must expend all their capital to acquire base property will seldom be in a position to aggressively pursue local economic development efforts.

The President's Five-Point Plan is effectively destroyed by the interim regulation's property disposal process, under which subjective determinations by the military regarding the existence of a ready market can eliminate a community's ability to obtain base property in an economically feasible manner.

Name: Komitea Para Tiyan
Address: Bureau of Planning (c/o Acting Director Mike Cruz)
Governor's Complex at Adelup
Agana, Guam 96910
Phone: 472-4201

91.7d
na/lzl

FORMAT FOR COMMENTS ON THE INTERIM RULE
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Forward comments to: Office of Assistant Secretary of Defense
for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: NAS AGANA BASE REUSE GROUP, KOMITEA PARA TIYAN
(Activity/Location/Community/Installation/Group)

Page 16132
Column 2
Paragraph 91.7(e)(6)

Recommended Changes:

Change the fourth sentence to read, "The Military Department shall determine that no market exists and that the closure will have a substantial adverse impact if after advertising for expressions of interest pursuant to paragraph (d) of this section, no expressions of interest are received."

Why:

It should be made clear that the Military Department does not have the discretion it now has under § 91.7(d)(4) to conclude that a market "apparently" exists even when there have been no offers to purchase which evidence a market.

Name: Komitea Para Tiyan
Address: Bureau of Planning (c/o Acting Director Mike Cruz)
Governor's Complex at Adelup
Agana, Guam 96910
Phone: 472-4201

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FORMAT FOR COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense
for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: NAS AGANA BASE REUSE GROUP, KOMITEA PARA TIYAN
(Activity/Location/Community/Installation/Group)

Page 16132
Column 2
Paragraph 91.7(f)

Recommended Changes:

Delete subsection 91.7(f)(4)(ii), and revise subsection 91.7(f)(4)(iv)(A) to provide that off-site capital improvements directly related to reuse of the base property are an allowable cost, even though they are not recognized in 41 C.F.R. § 101-47.4908. The last sentence of subsection 91.7(f)(4)(iv)(B) should be revised to include examples of specific eligible costs, and should include: costs of capital and operations for the property, such as state and local government expenses for financing on-site and off-site infrastructure improvements related to the reuse of the property, demolition costs, design and engineering expenses, planning and marketing expenses, costs for relocating McKinney Act house on-site or off-site, and capital interest or borrowing costs.

Why:

It is not uncommon for communities and private developers to subsidize new projects to attract jobs, and there is no reason to assume that by so doing, communities intend to deprive the federal government of its fair share of profits. Furthermore, the reporting requirements for communities are adequately set forth at 41 C.F.R. § 101-47.4908.

§ 91.7(f)
Page 2

The rule would be easier for most communities to work with if it set forth examples of eligible costs rather than referring to the Federal Acquisition Regulations.

Name: Komitea Para Tiyan
Address: Bureau of Planning (c/o Acting Director Mike Cruz)
Governor's Complex at Adelup
Agana, Guam 96910
Phone: 472-4201

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mm/lzl

06-21/94 18:28

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CONG. UNDERWOOD --- CONG. UNDERWOOD

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FORMAT FOR COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense
for Economic security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: NAS AGANA BASE REUSE GROUP, KOMITEA PARA TIYAN
(Activity/Location/Community/Installation/Group)

Page 16133
Column 2
Paragraph 91.7(h)

Recommended Changes:

In the last sentence of § 91.7(h)(1), eliminate the words, "or property which the base does not own." Include a requirement in subsection (h)(5) that the community be notified of the shipment of nonclassified equipment..

Why:

The rules should facilitate the community's reuse of personal property.

Name: Komitea Para Tiyon
Address: Bureau of Planning (c/o Acting Director Mike Cruz)
Governor's Complex at Adelup
Agana, Guam 96910
Phone: 472-4201

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FORMAT FOR COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense
for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: NAS AGANA BASE REUSE GROUP, KOMITEA PARA TIYAN
(Activity/Location/Community/Installation/Group)

Page 61634
Column 2
Paragraph 91.7(1)

Recommended Changes:

Amend subsection (2) to require the military to maintain the base property for up to two years after the final base closure, or 18 months after the property is available for civilian reuse, whichever is later, or until the community enters into an interim use lease for the property.

Why:

The interim rule allows DoD to end its maintenance responsibilities substantially earlier than the actual base closure, and as early as one week after the completion of the community base reuse plan.

Name: Komitea Para Tiyan
Address: Bureau of Planning (c/o Acting Director Mike Cruz)
Governor's Complex at Adelup
Agana, Guam 96910
Phone: 472-4201

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ma/lzl

VINT HILL ECONOMIC ADJUSTMENT TASK FORCE

26B John Marshall Street
Warrenton, VA 22186
Office: (703) 347-6965
Fax: (703) 349-2304

18 July 1994

Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

Re: Comments on BRAC Interim Final Rules

Dear Sir:

The enclosed comments on the BRAC Interim Final Rules are submitted on behalf of Fauquier County, Virginia, and the Vint Hill Economic Adjustment Task Force.

Sincerely,



Owen W. Bludau
Executive Director

/cak

Enclosure

cc: Senator John W. Warner
Senator Charles S. Robb
Congressman Frank R. Wolf

**Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward Comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Vint Hill Economic Adjustment Task Force
(Activity/Location/Community/Installation/Group)

Page 16131

Column 1 & 2

Paragraph [4][i] & [ii]

Recommended changes: "High value" determination criteria must be defined in the Rules.

"High value" properties will be narrowly defined in economic terms as those unique whole sites, or major portions thereof, whose locations or facilities are of such value on the commercial real estate market that they command sales offers at least 50 percent higher than the appraised values of the properties in their "as is, where is" conditions. Valid purchase offers at this level will indicate that the locations and their redevelopment into other uses and/or densities provide their primary values.

Keeping with the intent of 32 CFR Parts 90 and 91, "high value" also requires that sales offers must demonstrate the ability for *rapid* creation of jobs that are generally consistent with the time frames for job creation, the planned number of jobs, and the types of jobs (in terms of skill levels and wage levels) which are identified as local goals in the community base reuse plan. Purchase offers which contain high purchase prices, but which do not indicate a sound basis for rapid and reuse plan-consistent job creation, which are in conflict with the uses proposed in the local base reuse plan, or which impose heavy infrastructure improvement cost requirements on the community will not meet the criteria for definition as "high value" properties.

Why: "High value" was not defined in the Interim Final Rules. The whole concept of "high value" properties, as currently written, is fraught with interpretation minefields, which will only result in needless local-military conflicts, appeals of interpretations, and potential private sector-community-military law suits if sales are inconsistent with community base reuse plans and proposed zoning.

When specifically asked, the Department of Defense has not shown examples where early sales of "high value" properties have resulted in fast job creation. The Vint Hill Economic Adjustment Task Force, which is composed of appointees representing the banking, real estate, private industry, local business and similar sectors, feels strongly that early sales will not result in faster job creation than will conveyance of sites for economic development purposes. If the Department of Defense persists in this premise, then definition criteria should be established to guide the process. If certain properties do meet established criteria, they should be sold *only* if they conform to the community's base reuse plan in terms of land uses and types, numbers and wage levels of jobs proposed to be created.

Name: Owen W. Bludau, Executive Director
Address: 26B John Marshall St.
Warrenton, VA 22186
Phone: 703-347-6965

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

JOHN M. McHUGH
24TH DISTRICT, NEW YORK

416 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3224
(202) 225-4611

COMMITTEE ON ARMED SERVICES

SUBCOMMITTEE ON MILITARY
INSTALLATIONS AND FACILITIES

SUBCOMMITTEE ON OVERSIGHT
AND INVESTIGATIONS

COMMITTEE ON GOVERNMENT OPERATIONS

SUBCOMMITTEE ON ENVIRONMENT,
ENERGY, AND NATURAL RESOURCES

SUBCOMMITTEE ON EMPLOYMENT,
HOUSING, AND AVIATION



Congress of the United States
House of Representatives

July 18, 1994

ARMY CAUCUS
CO-CHAIRMAN

CONGRESSIONAL STUDY GROUP ON CANADA
CO-CHAIRMAN

CAUCUS FOR WOMEN'S ISSUES

CONGRESSIONAL RURAL CAUCUS

OLDER AMERICANS CAUCUS

SPORTSMEN'S CAUCUS

NORTHEAST AGRICULTURE CAUCUS

FIRE SERVICES CAUCUS

RURAL HEALTH CARE COALITION

HEALTH CARE POLICY TASK FORCE

FORESTRY 2000 TASK FORCE

TASK FORCE ON SOCIAL SECURITY

TASK FORCE ON AGRICULTURE

Honorable William Perry
Secretary of Defense
Room 3E880, The Pentagon
Washington, D.C. 20301

1098 7/26

1994 JUL 21 PM 1:42
OFFICE OF THE
SECRETARY OF DEFENSE

Dear Secretary Perry:

We are writing on behalf of the Plattsburgh, New York, Intermunicipal Development Council (PIDC), concerning its suggestions for revisions to the rule implementing Title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (the Pryor Amendment). We are enclosing for your review copies of the PIDC's specific recommendations and would appreciate these comments being inserted into the comment record for this rule.

In addition to the specific changes recommended, the PIDC also has concerns regarding several broader issues addressed by Title XXIX. According to the PIDC, the process as defined in the interim rule, while trying to add specificity to the base reconversion effort, actually undermines local redevelopment efforts in rural communities such as Plattsburgh which cannot easily absorb significant inventories of industrial and commercial structures. The PIDC believes the Department of Defense must recognize the inconsistency of two clear goals of the interim rule, specifically, local economic recovery and the generation of revenue by the Federal government.

As the PIDC views it, the "job centered" approach to the disposal of base properties appears simply to be concerned with the replacement of jobs lost as a result of the base's closure. It does not adequately recognize that rural community reuse organizations, involved as they are in long-term economic development efforts, must maintain significant inventories of real and personal property well beyond the three year post-closure period typically covered in care and custody agreements. Keeping in mind that substantial investments may be necessary to upgrade buildings and infrastructure following possible long vacancies, the ultimate cost of redevelopment in these areas will be significantly greater than the cost of developing the raw land.

The PIDC believes the long-term property management, redevelopment and economic development of Plattsburgh Air Force Base will unduly tax local resources if properties need to be purchased and/or, at a later point in time, revenue shared with the Federal government on a formula basis. The PIDC believes the interim rule should specifically exempt rural areas from purchase and profit recoupment requirements without the need to demonstrate economic hardships through an extensive process of economic impact analysis, market analysis and property valuation.

14933

The market analysis and appraisal guidelines outlined in the interim rule, when applied to rural areas, will result in inflated values for base structures due to extended redevelopment timetables and the apparent lack of consideration of the full range of necessary community investments. The community readjustment in slow growth areas, such as rural communities, will be daunting enough without the stated purchase requirements and the potential reduction of local revenue streams. We agree with the PIDC that these provisions should be eliminated from the base redevelopment process in rural areas.

In reference to the disposal of personal property, the PIDC believes the interim rule actually increases the uncertainty facing communities confronting a base closure challenge in the retention of critically needed material for the redevelopment effort. The interim rule contains too many explicit provisions by which non-military unique items can be either removed from the base or replaced with substantially inferior substitutes. Plattsburgh has recently experienced a series of incidents where inferior vehicles were substituted for new ones relocated to other active bases. In essence, the PIDC is concerned that a base facing closure will be stripped of its best equipment in order to meet a service's other existing operational requirements. The result, of course, lessens the marketability of the base and adds an additional obstacle to the local redevelopment team's effort to maximize the base's potential. At the very least, the specific circumstances under which material can be moved or substituted needs to be more narrowly defined.

Finally, as you undoubtedly know, the base closure process, like the military construction process, is an expensive undertaking. The Department must commit itself to ensuring that infrastructure improvements and upgrades at a base targeted for closure not be prematurely cancelled upon the decision to close the base. If an infrastructure improvement/upgrade is necessary for an active-duty base to perform its mission, those same improvements/upgrades will be critical to the redevelopment of the facility after closure. In the case of Plattsburgh Air Force Base, the senseless decision to close the base caused the Air Force to cancel approximately \$6 million in planned infrastructure improvements. If those improvements were necessary to the base, they are most certainly necessary to enhance its redevelopment potential. These improvements are essential if the base is to be prepared for conversion to civilian use. The failure of the Department to maintain a targeted base's infrastructure simply bucks responsibility for infrastructure improvements to the local redevelopment authority and, ultimately, the local taxpayers. Whether a rural or urban community, America's taxpayers do not need the added burden of financing improvements to a local military facility scheduled for closure. Quite candidly, the base closure process is traumatic enough for local communities without them having to pay for infrastructure improvements. The communities have suffered enough. At the very least, funding should be made available to finance infrastructure improvements.

Secretary Perry
Page 3

We would appreciate the PIDC's comments and concerns receiving your strongest consideration as the Department finalizes the rule implementing Title XXIX.

Your consideration of these matters will be greatly appreciated.

		
<u>Daniel Patrick Moynihan</u>	<u>Alfonse D'Amato</u>	<u>John M. McHugh</u>
U.S. Senator	U.S. Senator	Member of Congress

Enclosures

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX
of the National Defense Authorization Act for FY94

To: Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: Plattsburgh Intermunicipal Development Council
LRA for Plattsburgh Air Force Base, New York

Page 16132
Column 1
Paragraph 6

Recommended Changes:

Economic impact and market assessments should be eliminated from this section as criteria in the determination of whether base properties in rural areas can be transferred to the community at no cost.

Why:

Rural areas will typically experience difficulty in the absorption of large quantities of industrial, commercial and residential space, as well as raw land. Redevelopment efforts in these areas will require substantial levels of capital for ongoing maintenance and redevelopment over extended time periods. Successful redevelopment will be jeopardized by property transfers to the community on an initial fee or later recoupment of profits basis. Rural location alone should be adequate justification for no-cost property transfers.

Submitted by:

Stephen M. Erman
Executive Director
Plattsburgh Intermunicipal Development Council
185 Margaret Street
Plattsburgh, New York 12901

Phone (518) 562-4618

FAX (518) 561-8831

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX
of the National Defense Authorization Act for FY94

To: Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: Plattsburgh Intermunicipal Development Council
LRA for Plattsburgh Air Force Base, New York

Page 16130
Column 1
Paragraph -

Recommended Changes:

Add a new paragraph stipulating that "In cases where a redevelopment authority is managing an entire base reuse project including McKinney Act uses, the property transfer document to the Dept. of Health and Human Services shall specify that at such time that the property is no longer used for any McKinney Act purposes, it shall revert to the affected military department. The military department shall then provide the property on a first refusal basis to the local redevelopment authority prior to reporting same to the General Services Administration as surplus. The transfer to the LRA will be on the same basis as previously transferred adjoining properties."

Why:

McKinney Act housing may occupy a critically important area within the former base being redeveloped by the LRA. To ensure that local redevelopment goals are achieved, there should be a provision by which the community has easy access to former McKinney Act parcels no longer needed for those purposes. This is a reasonable request based on the anticipated significant investment to be made by LRAs during the redevelopment process.

Submitted by:

Stephen M. Erman
Executive Director
Plattsburgh Intermunicipal Development Council
185 Margaret Street
Plattsburgh, New York 12901

Phone (518) 562-4618

FAX (518) 561-8831

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX
of the National Defense Authorization Act for FY94

To: Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: Plattsburgh Intermunicipal Development Council
LRA for Plattsburgh Air Force Base, New York

Page 16128
Column 2
Paragraph 5 (3) Military departments . . .

and elsewhere.

Recommended Changes:

An impartial appeals process for DoD and Military Department decisions under this rule needs to be established.

Why:

§91.3 defines consultations as providing information and "carefully considering objections but with no requirement for agreement." While in the subject paragraph on page 16128 and elsewhere, it is stated that military departments should seek LRA input and consider same in decision-making, the closure communities have no real decision-making power relative to property currently owned by the Federal Government. Taking this into account, it is important that an effective and impartial appeals procedure be created to ensure that local interests are protected in Federal decision-making relative to real and personal property. Such a procedure is notably lacking in the interim rule.

Submitted by:

Stephen M. Erman
Executive Director
Plattsburgh Intermunicipal Development Council
185 Margaret Street
Plattsburgh, New York 12901

Phone (518) 562-4618

FAX (518) 561-8831

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX
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To: Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: Plattsburgh Intermunicipal Development Council
LRA for Plattsburgh Air Force Base, New York

Page 16134
Column 1
Paragraph 2

Recommended Changes:

Further definition of what constitutes "military unique" equipment should be made by each military department.

Why:

Certain personal property items that are currently classified as "military unique" by the USAF are usable for civilian purposes with little or no modification. As a result, usable property can be removed from installations without benefit of screening by the LRA.

Submitted by:

Stephen M. Erman
Executive Director
Plattsburgh Intermunicipal Development Council
185 Margaret Street
Plattsburgh, New York 12901

Phone (518) 562-4618

FAX (518) 561-8831

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX
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To: Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: Plattsburgh Intermunicipal Development Council
LRA for Plattsburgh Air Force Base, New York

Page 16134
Column 1
Paragraph 4

Recommended Changes:

Clarification is necessary to better distinguish between "depot stock," intended to be distributed from one base to others, and "base stock," intended for consumption on the base where stored. "Base stock" should be subject to screening by LRAs for potential community use in base redevelopment.

Why:

Current experience shows that little distinction is being made by the military between "depot stock" and "base stock". Decisions have been made by the USAF which have denied the PIDC the ability to screen supplies originally intended for consumption at PAFB (eg. medical supplies at the base hospital.) These should be available to the community if needed in the civilian reuse of military facilities.

Submitted by:

Stephen M. Erman
Executive Director
Plattsburgh Intermunicipal Development Council
185 Margaret Street
Plattsburgh, New York 12901

Phone (518) 562-4618

FAX (518) 561-8831

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX
of the National Defense Authorization Act for FY94

To: Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: Plattsburgh Intermunicipal Development Council
LRA for Plattsburgh Air Force Base, New York

Page 16134
Column 2
Paragraph 3

Recommended Changes:

When the military seeks to substitute one personal property item for another being removed from the installation, specific criteria should be followed in selecting the substitute. Selection criteria should include the following: 1. The item will not be beyond its stipulated service life at the point of transfer; and, 2. The item will be comparable in usefulness to the LRA as the original item considering age, mileage, and/or operating hours. Further, the specific agreement of the LRA should be sought for all substitutions rather than the required "consult" that is currently required.

Why:

The interim rule currently allows substitutions following what in essence amounts to notification to the LRA. Budget constraints in the Military Departments will likely raise the risk that the best equipment will be removed for continued service at active military facilities and the LRAs will receive equipment substitutes of substantially less value. High quality equipment will be as important to successful base redevelopment as high quality structures. The recommended changes will help ensure that equipment of the same quality as currently in place at the installation is available to assist the redevelopment effort.

Submitted by:

Stephen M. Erman
Executive Director
Plattsburgh Intermunicipal Development Council
185 Margaret Street
Plattsburgh, New York 12901

Phone (518) 562-4618

FAX (518) 561-8831



U.S. Department of Justice

Federal Bureau of Prisons

Washington, DC 20534

July 25, 1994

1099 7/26

Office of Assistant Secretary of Defense
for Economic Security
3D814, The Pentagon
Washington, D. C. 20310-3300

Dear Sir/Madam:

Enclosed are eight comments on the interim rule, implementing the National Defense Authorization Act for 1994 which was published in the Federal Register on April 6, 1994.

If you have any questions, please contact me or Jeff Ratliff of my staff.

Sincerely,

A handwritten signature in dark ink, appearing to read "Patricia K. Sledge", is written over the typed name.

Patricia K. Sledge, Chief
Site Selection and Environmental Review Branch

Enclosures

**Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
30814, The Pentagon
Washington, DC 20301-3300

From: Federal Bureau of Prisons
(Activity/Location/Community/Installation/Group)

Page TBD
Column
Paragraph

Recommended Changes:

The screening process should be revised so that it gives priority to Federal, State and local agencies, in that order, desiring to acquire property for correctional purposes.

Why: The Defense Authorization Act for Fiscal Years 1990 and 1991, P.L. 101-189 § 2832 (1990), establishes Congress' intent that property declared to be either excess or surplus under the Base Closure Act be "seriously considered for use as prisons and drug treatment facilities, as appropriate." P.L. 101-189 § 2823(a)(4). The Defense Authorization Act expressly provides that:

It is the sense of Congress that the Secretary of Defense should, pursuant to...the Defense Authorization Amendments and Base Closure and Realignment Act, give priority to making real property.. rendered excess or surplus as a result of the recommendations of the Commission of Base Realignment and Closure available to another Federal agency or a state or local government for use as a penal or correctional facility or as a drug abuse prevention, treatment, or rehabilitation center.

Name: Patricia K. Sledge, Chief, Site Selection Branch
Address: 320 First Street, NW., Washington, D. C. 20534

Phone: (202) 514-6470

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

**Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
30814, The Pentagon
Washington, DC 20301-3300

From: Federal Bureau of Prisons
(Activity/Location/Community/Installation/Group)

Page 16124
Column 1
Paragraph 4

Recommended Changes:

Insert the word "correctional facilities" to read:

Property that has no homeless interest, as determined by HHS, will then be available for transfer by either direct sale to the public, negotiated conveyance to the local redevelopment authority, public benefit conveyances for airports, schools, ports, correctional facilities, etc., or the new economic development conveyance discussed in paragraph 5.

Why:

Property to be used for correctional facilities qualifies for no cost public benefit transfer.

Name: Patricia K. Sledge, Chief, Site Selection Branch
Address: 320 First Street, NW., Washington, D. C. 20534

Phone: (202) 514-6470

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule
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Forward comments to: Office of Assistant Secretary of Defense for Economic Security
30814, The Pentagon
Washington, DC 20301-3300

From: Federal Bureau of Prisons
(Activity/Location/Community/Installation/Group)

Page 16124
Column 2
Paragraph 1

Recommended Changes:

Add the following phrase to the second full sentence, "other Federal agency use or" so that it now reads as follows:

Agreement with proposed uses, other than for other Federal agency use or for McKinney Act homeless use, is at the discretion of the Military Departments who have been delegated disposal authority.

Why:

Under existing law, Federal agencies have priority over all other entities (except other DOD agencies) who request base property for reuse purposes. This is not up to the discretion of the Military Department if the Federal agency submits a request during the screening period for real property to be used for an authorized Federal program.

The Military Department should not be permitted to transfer real property to others if it has been requested by a Federal agency.

Name: Patricia K. Sledge, Chief, Site Selection Branch
Address: 320 First Street, NW., Washington, D. C. 20534
Phone: (202) 514-6470

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

**Format For Comments On The Interim Rule
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National Defense Authorization Act For FY94**

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
30814, The Pentagon
Washington, DC 20301-3300

From: Federal Bureau of Prisons
(Activity/Location/Community/Installation/Group)

Page 16123
Column 3
Paragraph 1

Recommended Changes:

Insert the word "correctional" in the first sentence to read:

In announcing the community revitalization program, President Clinton recognized that existing Federal law required the DOD to charge full price when closed bases will be used for job-creating economic development, yet it can transfer bases at no cost for a variety of "public" uses, including recreation, aviation, education, health and correctional.

Why:

Correctional use qualifies for free transfer according to Federal Property Management Regulations, 41 C.F.R. §101, and P.L. 101-189 § 2832 (1989), should be mentioned specifically here.

Name: Patricia K. Sledge, Chief, Site Selection Branch
Address: 320 First Street, NW., Washington, D. C. 20534
Phone: (202) 514-6470

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

**Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
30814, The Pentagon
Washington, DC 20301-3300

From: Federal Bureau of Prisons
(Activity/Location/Community/Installation/Group)

Page 16128
Column 1/2
Paragraph (a)(1)

Recommended Changes:

§ 91.7(a)(1) When the Department of Defense no longer needs to retain real property, the Department is required to dispose of the property in accordance with the prescribed screening process in the General Services Administration property disposal regulations, and the expedited process described in this part. The screening process is to include giving serious consideration to the priority of making real property available to another Federal agency for use as a penal or correctional facility as stated by Congress. (See P.L. 101-189 § 2832(b) (1989)).

Why:

This is consistent with previously expressed Congressional intent that base closure property be seriously considered for correctional and penal use.

Name: Patricia K. Sledge, Chief, Site Selection Branch
Address: 320 First Street, NW., Washington, D. C. 20534

Phone: (202) 514-6470

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule
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Forward comments to: Office of Assistant Secretary of Defense for Economic Security
30814, The Pentagon
Washington, DC 20301-3300

From: Federal Bureau of Prisons
(Activity/Location/Community/Installation/Group)

Page 16126
Column 2/3
Paragraph a(1)(ii)

Recommended Changes:

§ 90.4(a)(1)(ii) Accelerating the property screening process early in the disposal process to determine other potential Federal uses of the property, including giving serious consideration to the priority of making real property available to another Federal agency for use as a penal or correctional facility (See P.L. 101-189 § 2832(b) (1989)), and including the identification of the needs of homeless providers.

Why:

This is consistent with previously expressed Congressional intent that base closure property be seriously considered for correctional and penal use.

Name: Patricia K. Sledge, Chief, Site Selection Branch
Address: 320 First Street, NW., Washington, D. C. 20534
Phone: (202) 514-6470

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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30814, The Pentagon
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From: Federal Bureau of Prisons
(Activity/Location/Community/Installation/Group)

Page 16128
Column 3
Paragraph (a)(s)

Recommended Changes:

§ 91.7(a)(5) Requests for transfers of property submitted by other Federal agencies will normally be accommodated. Decisions on the transfer of property to other Federal agencies shall be made by the Military Department concerned in consultation with the local redevelopment authority, and serious consideration shall be given to making real property available to another Federal agency for use as a penal or correctional facility (See P.L. 101-189 § 2832(b) (1989)). This section shall not be interpreted as stating that the local redevelopment authority has a veto power with regard to the Military Department's decisions.

Why:

This is consistent with prior law and does not conflict with the proposed regulation's focus on job creation.

Name: Patricia K. Sledge, Chief, Site Selection Branch
Address: 320 First Street, NW., Washington, D. C. 20534

Phone: (202) 514-6470

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule
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Forward comments to: Office of Assistant Secretary of Defense for Economic Security
30814, The Pentagon
Washington, DC 20301-3300

From: Federal Bureau of Prisons
(Activity/Location/Community/Installation/Group)

Page 16135
Column N/A
Paragraph N/A

Recommended Changes:

With regard to the flow chart on page 16135, it is suggested that an additional step indicated in bold lettering be added to the chart as follows:

```

                        No
Excess to DoD ----> Retain
    Yes \
          \
Excess to Federal-----> Retain
    Yes \
          \
Surplus
```

Why:

This change corrects the flow chart so that it is consistent with, and accurately reflects, the requirements of the current screening process set forth in Federal regulations.

Name: Patricia K. Sledge, Chief, Site Selection Branch
Address: 320 First Street, NW., Washington, D. C. 20534

Phone: (202) 514-6470

(NOTE: LIMIT TO 1 COMMENT PER PAGE)



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

JUL 14 1994

ER 94/335

1100 7/26

Mr. Joshua Gotbaum
Office of the Assistant Secretary of Defense
for Economic Security
The Pentagon, Room 3D854
Washington, D.C. 20301

Dear Mr. Gotbaum:

The Department of the Interior (Department) has reviewed the proposed regulations for revitalizing base closure communities. In our view, the primary focus of the proposed regulation is with economic development.

The closing of military bases in the East represents what is perhaps one of the last opportunities to return large tracts of land to resource management. The perceived benefits of economic development of these lands must be carefully weighed against the continuing loss of habitat for endangered wildlife, destruction of water recharge areas, and the loss of cultural resources.

The determination of the best use of these lands should not depend only on short-term economic return. Healthy ecosystems are intangibles that should not be overlooked during the closure process. In addition, it is important to note that the significant resource values contained on these lands will have potential for increased tourism and recreation opportunities for the affected communities.

The Department recommends that the proposed regulations be expanded to allow a Federal agency to acquire base property, at no cost, for the enhancement of a regional ecosystem. This may include using acquired property as exchange stock for future acquisitions of other lands that contain sensitive resource values. The proposed regulations should reflect the land requirements under Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act. Further, language should be provided to allow the Department and its bureaus to exchange these acquired lands under ecosystem managements concepts, where there is no State and/or agency jurisdictional boundaries.

For your information, we are enclosing a copy of Departmental Manual Chapter, 602 DM2, "Hazardous Substances Determinations." This Chapter requires that prior to acquisition of any land by the Department of the Interior or its bureaus, a determination will be made for the presence and extent of hazardous substances in or on the land. This policy applies to any interest in land (including but not limited to fee title, easements, rights-of-way, lapses, reverters, trust lands and leases) by the Department and its bureaus. This Chapter may be of some assistance to you in structuring your program.

If you have any questions, please feel free to contact Sheila Huff at (202) 208-5464 or Jim Ortiz at (202) 208-7553.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan P. Deason", written over a large, loopy flourish that extends downwards and to the left.

Jonathan P. Deason
Director, Office of Environmental
Policy and Compliance

Enclosure

DEPARTMENT OF THE INTERIOR
DEPARTMENTAL MANUAL

Public Lands

Part 602 Land Acquisition

Chapter 2 Hazardous Substances Determinations

602 DM 2.1

2.1 Purpose. This chapter prescribes Departmental policy, responsibilities, and functions regarding hazardous substances determinations required to be made prior to the acquisition of any land by the Department for the United States. The responsibilities and functions prescribed in this chapter are intended to ensure that each bureau charged with acquiring land determines, prior to acquisition, the likelihood of the presence and extent of hazardous substances in or on the land. Any such determinations must be a consideration in any decision to acquire land and in establishing the total cost of acquisition. The requirements contained in this chapter are based on the provisions of Secretary's Order No. 3127 dated December 15, 1988.

2.2 Scope. The responsibilities and requirements made applicable to land acquisition by this chapter shall apply to any interest in land (including but not limited to fee title, easements, rights-of-way, lapses, reverters, trust lands and leases) to be acquired by the Department or a bureau. Such acquisitions may be by purchase, condemnation, donation, exchange or otherwise.

2.3 Policy. Before any real estate is acquired by the Department for the United States, a determination will be made to ascertain whether hazardous substances are present in or on such real estate. The Department will not acquire any real estate if an expenditure of Departmental funds is required for cleanup of such real estate, except at the direction of Congress, or for good cause with the approval of the Secretary.

2.4 Responsibilities.

A. Assistant Secretaries. Each Assistant Secretary is responsible for ensuring the performance of the functions and requirements described in 602 DM 2.5, except as limited therein. The responsibilities described in 602 DM 2.5 may be relegated to bureau heads, provided that prior to such assignment, the bureau head designates an official of the bureau who shall be responsible for ensuring the bureau's compliance with the provisions of this chapter.

B. Assistant Secretary - Policy, Budget and Administration. The Assistant Secretary - Policy, Budget and Administration (PBA) may approve, consistent with the provisions of 602 DM 2.5C, any land acquisition in which the land proposed to be acquired is found to contain hazardous substances and expenditure of Departmental funds for cleanup of the land is required. This authority may not be redelegated.

DEPARTMENT OF THE INTERIOR
DEPARTMENTAL MANUAL

Public Lands

Part 602 Land Acquisition

Chapter 2 Hazardous Substances Determinations

602 DM 2.5

2.5 Requirements, Functions and Procedures.

A. Surveys for Hazardous Substances. Whenever a tract of land is proposed for acquisition, a survey must be conducted to determine the possible presence of hazardous substances and the existence of or potential environmental harm therefrom. The survey must, at a minimum, include a review of previous ownership and uses of the site. The pertinent Assistant Secretary or his designee shall report on each survey to the Assistant Secretary - PBA. At a minimum, the report must advise that a survey was conducted, what hazardous substances, if any, were found, the estimated costs of remediation, any potential problems related to hazardous substances, the possibility of the existence of unfound hazardous substances, any proposed future action, and a certification that the pertinent Assistant Secretary has personally reviewed the report.

B. Acquisition. Following the submission of the report as required in 2.5A above, land may be acquired, provided: (1) no evidence of hazardous substances was found or, (2) if there was such evidence, there will be no estimated increased costs to the taxpayers. In all other cases land may be acquired only for good cause, and with the approval of the Secretary. The Solicitor must be consulted in cases where hazardous substances are present and the land is to be acquired, for the purpose of developing adequate protection of the United States from future liability. Such protection must be included in the Deed of Conveyance, contract or other legally enforceable instrument, as appropriate.

C. Re-programming. In cases where hazardous substances are present and reprogramming is required for the cleanup of those substances, the Assistant Secretary - Policy, Budget and Administration, based on recommendations of the relevant program Assistant Secretary, may submit a reprogramming proposal to the House and Senate Appropriations Committees according to established reprogramming procedures.

D. Statutory Acquisitions. Each Assistant Secretary must ensure that all reports to Congress, comments on legislation, testimony before Congress, and draft legislation on the acquisition of land contain a statement of the need to survey for, and assess the effects of, the presence of any hazardous substances in or on the land.

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

1101
7/29

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: City of Kettering/ Kettering, Ohio/Gentile AFS/DESC
(Activity/Location/Community/Installation/Group)

Page 16127

Column 1

Paragraph 90.4(b) (1) & (2)

Recommended Changes:

Eliminate either Paragraph 90.4b1 or 90.4b2

Why: Normally (and in the case of Gentile AFS) the community is awarded a Planning Grant from OEA, establishes a reuse committee of community leaders, contracts with a reuse planner, and expends significant resources, time, effort and energy in developing a reuse plan to benefit the entire region. Under the current rule, the next step might be to sell to a private developer who is not bound by the reuse plan. It seems appropriate that the properly approved community reuse plan should be the only guide for disposal after federal screening has been completed. If the reuse plan recommends sale to a developer, it should be done through the community development authority.

Name: Larry Leese, DESC Reuse Coordinator
Address: City of Kettering
3600 Shroyer Road
Kettering, Ohio 45429

Phone: 513-296-3330

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BRAC

Format For Comments On The Interim Rule
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National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: HQ STARC.(-), OHARNG
(Activity/Location/Community/Installation/Group)

Page 16133

Column s 2-3

Paragraph (h) (3)

Recommended Changes: After "the base commander is responsible for determining the items or category of items potentially enhancing the reuse of the real property and needed to support the redevelopment plan." add:

In the National Guard, the United States Property & Fiscal Officer shall make these determinations after first considering whether the State's Army or Air National Guard has a known requirement for the property, for which federal funds must otherwise be expended, upon request of the State's Adjutant General.

Why: The State's National Guard is as much a part of the community as is the local redevelopment authority. Additionally, the U.S. Property & Fiscal Officer not the base commander, is accountable for government property in the National Guard under 32 USC 708.

Name: MAJ Duncan Aukland, ATTN: AGOH-JA
Address: 2825 West Dublin-Granville Road
Columbus, Ohio 43235-2789

Phone: (614)889-7022
DSN : 273-7022

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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7/29

**Format For Comments on the Interim Rule
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National Defense Authorization Act For FY94**

Forward comments: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Naval Air Warfare Center, Trenton, NJ
(ACTIVITY/LOCATION/COMMUNITY/INSTALLATION/GROUP)

Page: 16130

Column: 2

Paragraph: i, ii

Recommended Changes:

The LRA should submit a redevelopment conceptual plan reflecting the development concept preferred by the LRA. The Military Dept or installation should be responsible for preparation of a final redevelopment plan that includes other types of conveyances including homeless providers, transfers to other Federal Agencies or direct sales.

Why:

Requiring a LRA to submit a redevelopment plan identifying parcels to be sold directly by the military, transferred to other Federal Agencies or conveyed for homeless assistance is not realistic. The LRA will most likely advocate economic development conveyance and will likely disagree with the other conveyances listed above.

Name: Barry Barclay (on behalf of NAWC Trenton Reuse Committee)
Address: NAWC Trenton
1440 Parkway Avenue
Ewing, NJ 08628
Phone: 609-538-6489

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From: Naval Air Warfare Center, Trenton, NJ
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Page: 16130

Column: 3

Paragraph: i, ii

Recommended Changes:

Advertising for expression of interest for direct sale of property should be shortened from 6 months or should take place during McKinney screening or more time should be allowed for the local redevelopment authority to submit a development plan. The actions described in paragraph 2, column 3 (i.e. - appraisals or estimates) should start before the McKinney Act Screening has finished.

Why:

After the 6-month advertising for expressions of interest and 30 - day Military Dept analysis of responses, there are only 5 months left for community appeal and preparations of a development plan.

Name: Barry Barclay (on behalf of NAWC Trenton Reuse Committee)
Address: NAWC Trenton
1440 Parkway Avenue
Ewing, NJ 08628
Phone: 609-538-6489

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Page: 16130

Column: 3

Paragraph: (2), (3)

Recommended Changes:

Clarify whether the direct sale of property includes related personal property. If "yes", is the value of personal property included in the appraisal and does the advertising for expressions of interest include description of the personal property potentially available. Will potential buyers be given the opportunity to review personal property inventories.

Why:

Name: Barry Barclay (on behalf of NAWC Trenton Reuse Committee)
Address: NAWC Trenton
1440 Parkway Avenue
Ewing, NJ 08628
Phone: 609-538-6489

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Page: 16130 16131
Column: 3 2, 3
Paragraph: (3) (e)

Recommended Changes:

Interim rules only allow sale or conveyance of all or substantial portions of the base property. The rule should be changed to allow transfer of smaller, uncontaminated parcels with reasonable development potential. Authorize Military Depts. to demolish unusable or unsafe buildings to encourage property transfer for reuse and to avoid long-term caretaker costs.

Why:

NAWC Trenton, like many other bases, has environmentally contaminated areas requiring long-term clean-up and many unique industrial facilities which can only perform specialized military functions. By the time property becomes available, most of these unique facilities will have been stripped of all valuable personal property (due in part to the liberal guidance on exempted personal property) and will have little if any developmental potential. Requiring the buyer or "conveyee" to accept property undergoing clean-up and requiring expensive demolition of heavy industrial buildings (laden with asbestos and lead paint) will certainly discourage transfer and reuse of that base property with reasonable development potential.

Name: Barry Barclay (on behalf of NAWC Trenton Reuse Committee)
Address: NAWC Trenton
1440 Parkway Avenue
Ewing, NJ 08628
Phone: 609-538-6489

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From: Naval Air Warfare Center, Trenton, NJ
(ACTIVITY/LOCATION/COMMUNITY/INSTALLATION/GROUP)

Page: 16131

Column: 1

Paragraph: g

Recommended Changes:

If property is leased (rather than conveyed) to a LRA at less than fair market value and subsequently subleased by the LRA at a profit, does the Military Dept share in the profit?

Name: Barry Barclay (on behalf of NAWC Trenton Reuse Committee)
Address: NAWC Trenton
1440 Parkway Avenue
Ewing, NJ 08628
Phone: 609-538-6489

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Forward comments: Office of Assistant Secretary of Defense for Economic Security
310814, The Pentagon
Washington, DC 20301-3300

From: **Naval Air Warfare Center, Trenton, NJ**
(ACTIVITY/LOCATION/COMMUNITY/INSTALLATION/GROUP)

Page: 16131

Column: 1

Paragraph: 6

Recommended Changes:

Need better definition of rural area. Do not see the need for special treatment of rural bases. If any base generates no expression of interest for direct sale and has substantial adverse impact (what does substantial mean?) then why can't even non-rural bases be conveyed without recoupment.

Name: Barry Barclay (on behalf of NAWC Trenton Reuse Committee)
Address: NAWC Trenton
1440 Parkway Avenue
Ewing, NJ 08628
Phone: 609-538-6489

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From: **Naval Air Warfare Center, Trenton, NJ**
(ACTIVITY/LOCATION/COMMUNITY/INSTALLATION/GROUP)

Page: 16131

Column: 1, 2

Paragraph: 4

Recommended Changes:

Simplify the language, better define the process and conditions for direct sale and eliminate the redundant direct sale paths whereby the property can be sold even if no expression of interest to advertising are received as long as most of the property has high value and can be sold near fair market value. Need a better definition of what "high value" and "most of the installation" mean. Who determines fair market value? How is it determined?

Why:

Interim rules favor the direct sale of property by the Military Depts versus the economic development conveyance or public benefit conveyance. Even if the advertising for direct sale is unsuccessful, the property can be sold if it has "high value" and "most of it" can be sold "near" the estimated range of fair market value. The subjective nature of these conditions sends the message to LRA's that the Military will strongly favor direct sale and that economic development conveyance will be a last resort. Can we expect LRA's aggressively plan for development until the issue of direct sale is resolved?

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Address: NAWC Trenton
1440 Parkway Avenue
Ewing, NJ 08628
Phone: 609-538-6489

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Page: 16131

Column: 2

Paragraph: (c) (1)

Recommended Changes:

If the military department has budgeted to demolish a substandard building and/or pay for its long term care taking, we would like the option to combine these funds with public/private sector funds to finance the rehabilitation of the building.

Why:

Refurbishing substandard or unsafe buildings can be beyond the immediate means of an LRA and the only alternative to the Military Dept is to demolish or pay for the long term care taking of the building. If the demolition/caretaker funds could be combined with public/private sector funds in a joint venture, it's possible that buildings could be rehabilitated, conveyed to the LRA and used for job creation and economic development.

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Address: NAWC Trenton
1440 Parkway Avenue
Ewing, NJ 08628
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Page: 16131

Column: 2

Paragraph: 2

Recommended Changes:

While the one-year period is reasonable for the LRA to submit an expression of interest, it is too short a time period to prepare a redevelopment plan, especially considering that the Military Depts will spend the first 6 months or more deciding whether to sell the property directly. For NAWC Trenton (Sept 98 closure), this time table prescribes the submission of a redevelopment plan as far as 3 years in advance of property availability. Recommend that the LRA expression of interest be accompanied by a reuse conceptual plan, but more time be allowed for preparation of a final development plan. Submission of the redevelopment plan should be tied to the individual base closure date, not the up front BRAC process date.

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Address: NAWC Trenton
1440 Parkway Avenue
Ewing, NJ 08628

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Page: 16131

Column: 2, 3

Paragraph: (e) (1)

Recommended Changes:

How much of a base must the LRA take over? The interim rule allows direct sale of "most" of a base but the language in these paragraphs imply that a LRA must take over undevelopable land areas and undesirable buildings and be responsible for their long term upkeep and/or demolition. In many cases, demolition will require asbestos and lead paint removal which may expose the LRA to substantial liability and cost. The Military Depts should bear the responsibility for demolition or long-term care taking of unwanted problem buildings, industrial areas, etc and not force them upon the LRA.

Name: Barry Barclay (on behalf of NAWC Trenton Reuse Committee)
Address: NAWC Trenton
1440 Parkway Avenue
Ewing, NJ 08628
Phone: 609-538-6489

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Page: 16131

Column: 3

Paragraph: 2

Recommended Changes:

Need better definition on who/how it is decided whether property will be conveyed at or below fair market value or without consideration. This is an enormous range of value but nowhere do the rules address where in this range the particular property will be conveyed and what criteria will be used to determine the amount of consideration.

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Address: NAWC Trenton
1440 Parkway Avenue
Ewing, NJ 08628
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Page: 16132

Column: 1

Paragraph: (5) (i)

Recommended Changes:

The redevelopment plan and request for property conveyance should include descriptions of both the real property and personal property to be conveyed to the LRA.

Why:

Bases need a clear and complete description of all personal property requested to be conveyed by the LRA so that disposal of unwanted personal property can proceed quickly prior to base closing.

Name: Barry Barclay (on behalf of NAWC Trenton Reuse Committee)
Address: NAWC Trenton
1440 Parkway Avenue
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Page: 16132

Column: 2

Paragraph: 5, 6

Recommended Changes:

More time must be allowed for the community to appeal the direct sale of the property before the expiration of the one year time period for the LRA to submit an expression of interest and a development plan.

Why:

The Military Dept has 6 months to advertise for direct sale, 30 days to analyze responses and 60 days to allow community appeal. This leaves 3 months for the LRA to prepare a development plan (if the appeal is successful) or 3 months to prepare a counter-offer and arrange financing for community acquisition of the property at fair market value (if the appeal is unsuccessful). This is much too short a schedule for reasonable LRA action.

Name: Barry Barclay (on behalf of NAWC Trenton Reuse Committee)
Address: NAWC Trenton
1440 Parkway Avenue
Ewing, NJ 08628
Phone: 609-538-6489

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Page: 16132

Column: 2

Paragraph: (D)(1)

Recommended Changes:

What expenses are allowed to determine net profit by the LRA. Are building demolition costs and expenses in complying with American Disability Act and local building codes allowable to be deducted from gross profit.

Why:

Name: Barry Barclay (on behalf of NAWC Trenton Reuse Committee)
Address: NAWC Trenton
1440 Parkway Avenue
Ewing, NJ 08628

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Page: 16133

Column: 2, 3

Paragraph: (h)(2), (h)(5)

Recommended Changes:

Clarify the apparent conflict in guidance in the two paragraphs: Para (h)(2) states that exempted categories of personal property shall not be subject to community review; para (h)(5) states that exempted personal property may be removed upon approval of the base commander or higher authority and after notice to the LRA. Also need clarification on who specifically has authority over the various exempted categories of personal property.

Why:

Name: Barry Barclay (on behalf of NAWC Trenton Reuse Committee)
Address: NAWC Trenton
1440 Parkway Avenue
Ewing, NJ 08628
Phone: 609-538-6489

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From: Naval Air Warfare Center, Trenton, NJ
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Page: 16133

Column: 3

Paragraph: (4)

Recommended Changes:

Personal property should remain on the base until the reuse plan has been submitted, reviewed and approved. Any personal property judged likely to be needed to support the reuse plan should continue to remain on the base and maintained in present condition until conveyed with the real property. Paragraphs (iii) and (iv) should be eliminated.

Need to allow base commanders discretionary authority to dispose of base property without consultation, if it is judged by him to not be useful for redevelopment and its disposal is part of the base "housekeeping" and shutdown process. We don't want bases to become repositories of stored "junk" awaiting disposition nor do we want to bother LRA with constant reviews of routine disposals.

Why:

For a BRAC 93 base, McKinney screening will be completed between Oct 94 and Feb 95 (depending on whether applications are received) and the redevelopment plan must be submitted one year later. Paragraph (iii) allows personal property to be removed by Nov 95 which may be earlier than the due date for the plan.

No authority given to allow property to remain on base if it is identified as needed to support the reuse plan (obviously this is implied but the language does not state this).

Name: Barry Barclay (on behalf of NAWC Trenton Reuse Committee)
Address: NAWC Trenton
1440 Parkway Avenue
Ewing, NJ 08628
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From: **Naval Air Warfare Center, Trenton, NJ**
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Page: 16133, 16134

Column: 3, 1

Paragraph: (h) (5)

Recommended Changes:

Time limits should be placed on the claiming or removal of exempted categories of personal property. Suggest that any personal property needed by a transferring unit, commands, Federal Agency etc. be identified prior to completion of McKinney screening so that the LRA can start its one year reuse planning effort knowing what personal property it will have access to. The LRA should have appeal rights to removal of exempted property.

Why:

As currently worded, jurisdictional major commands or any Federal Dept or Agency etc. have authority to remove personal property at any time. This will make reuse planning difficult, and even if the reuse plan identifies the property as needed, it can be "claimed" and removed any time prior to actual conveyance to the LRA. Exempted categories of personal property cover a broad range and removal authority should be time limited.

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1440 Parkway Avenue
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Page: 16134

Column: 3

Paragraph: (2)

Recommended Changes:

Level of maintenance and repair should remain until the reuse plan has been submitted, reviewed and approved. Level of M&R on real or personal property identified in the reuse plan should be maintained until conveyed, and not until one of the time periods in paragraph (h) (4) has expired.

Why:

For a BRAC 93 base, the reuse plan must be submitted between Oct 95 and Feb 96 (depending on length of McKinney screening). Paragraph (h) (4) allows level of M&R to be reduced by Nov 95 which may be earlier than the due date for the LRA plan.

No authority given to maintain level of M&R on property identified for conveyance on the reuse plan after the expiration of the dates in paragraph (h) (4) (obviously this is implied but the language does not state this).

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Address: NAWC Trenton
1440 Parkway Avenue
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From: Naval Air Warfare Center, Trenton, NJ
(ACTIVITY/LOCATION/COMMUNITY/INSTALLATION/GROUP)

Page: _____ N/A

Column: _____

Paragraph: _____

Recommended Changes:

What is the status of the action prescribed section 2917 of Title XXIX Subtitle A of the FY94 Defense Authorization Act? This part of the Pryor Amendment directed the Secretary to conduct a study to determine the feasibility of applying 10% of BRAC savings to community grants. Study results were to be reported to Congress by 1 March 1994. We have heard nothing on the study result or prospects for augmenting community grants.

Why:

Name: Barry Barclay (on behalf of NAWC Trenton Reuse Committee)
Address: NAWC Trenton
1440 Parkway Avenue
Ewing, NJ 08628
Phone: 609-538-6489

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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Implementing
National Defense Au

Post-It* Fax Note 7671		Date 8/21/94	# of pages 2
To Bob Bayer	From Greg Bischak/Miriam Pemberton		
Co./Dept. Dept. Asst Sec	Co. NCECD		
Phone # of Defense for	Phone # 202-728-0815		
Fax # Econ Reinvestment	Fax # 202-728-0826		

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: National Commission for Economic Conversion and Disarmament
(Activity/Location/Community/Installation/Group)

Page 16126
Column 2
Paragraph (e)

Recommended Changes: The final regulations should mandate that Local Redevelopment Authorities be broadly representative of the constituencies that will be affected by the base redevelopment, especially at the stage of planning as opposed to implementation. Since the list of appropriate constituencies varies from base to base, an analysis of who the appropriate stakeholders are needs to be part of the process of setting up each LRA. A partial list of likely candidates includes representatives of local residents, community-based interest groups including environmentalists, local government officials, tribes, economic interest groups including environmentalists, local government officials, tribes, economic development interests (as distinct, in some cases, from agricultural interests), and in every case, elected representatives of workers and/or former workers, including representatives of trade unions where the workplace is organized. Once the appropriate constituencies are identified, the representative to the LRA from each constituency should be chosen by its members, where possible, rather than by the base commander or local government officials.

Why:

The interim regulations are silent on the question of who will make up the LRAs. The failures of a top-down approach to local reuse planning are evident in such places as Pease Air Force Base, where the plan fell apart because major local constituencies had not been consulted.

Name: Greg Bischak; Miriam Pemberton
Address: 1828 Jefferson Place
Washington, DC 20036

Phone: 202-728-0815

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Comment on the Interim Rule Implementing Title XXIX of the National Defense Authorization Act for FY94, from the National Commission for Economic Conversion and Disarmament, continued:

The Department of Energy has set up a Task Force on Community Economic Development, chaired by Bob DeGrasse, Special Assistant for Defense Programs, which has been developing guidelines for broad-based community participation in reuse planning at former DoE sites; their work could provide a useful model for DoD to examine.

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7/27
August 4, 1994

DRAFT

Office of the Assistant Secretary of Defense for Economic Security
Room 3D854
The Pentagon
Washington, DC 20301-3300

Dear Mr. Assistant Secretary:

Thank you for the opportunity to provide comments on the Interim Final Rule on "Revitalizing Base Closure Communities and Community Assistance" (32 CFR Parts 90 and 91). These comments are provided on behalf of the recently established Alameda Reuse and Redevelopment Authority ("ARRA"). The ARRA is the entity responsible for developing and implementing the reuse and redevelopment plan for the Naval Air Station Alameda ("NAS Alameda"), located in Northern California. Because these comments are organized into several key issues and topics that integrate and address many diverse aspects of the Interim Final Rule, it is neither feasible nor appropriate to provide comments in the requested format.

Interim Final Rule is Conceptually Flawed

Our overriding concern is that the intent of the President's Five Point Plan (See "A Program to Revitalize Base Closure Communities," July 2, 1993) and the Pryor Amendment (See Section 2903 of the National Defense Authorization Act for FY 1994) has been essentially disregarded in the Interim Final Rule promulgated by the Department of Defense. As a result, the Interim Final Rule is conceptually flawed and should be substantially revised.

The President, when he announced his Five Point Plan, and the Congress, when it enacted the Pryor Amendment, made it clear that the foremost priority of the base reuse process would be rapid job creation and economic recovery for affected communities. To assure that this policy goal was met, it seemed logical that the Department of Defense and the military departments would work closely and cooperatively with affected communities to develop and implement a meaningful local redevelopment plan. This plan would comprehensively evaluate the unique economic, social and environmental constraints and opportunities facing affected communities. It would be the guiding framework of the entire base reuse process. The Pryor Amendment, in fact, states that:

"The Secretary of Defense shall consider locally and regionally delineated economic development needs and priorities into the process by which the Secretary

Assistant Secretary of Defense for Economic Security
August 4, 1994
Page 2

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disposes of real and personal property In determining such needs and priorities, the Secretary shall take into account the redevelopment plan developed for the military installation involved."

However, as it is currently written, the Interim Final Rule fails to adequately acknowledge the needs of affected communities, and it gives insufficient priority to the local redevelopment plan.

This fundamental weakness in the Interim Final Rule is evident in the "Process Flow Chart for Base Closure Community Assistance" (See Appendix A to Part 91 of the Interim Final Rule), wherein the order of priority for property disposal places community interests, as expressed through the local redevelopment plan, last. As the flow chart indicates, all property transfer decisions, except those to the community, may occur prior to completion of the redevelopment planning process. The priority of interests and order of property transfers diagrammed in the flow chart is currently:

1. Transfers to other Department of Defense agencies;
2. Transfers to other federal agencies;
3. Transfers to homeless providers;
4. Sales to third parties;
5. Transfers to other public benefit conveyance interests; and
6. Transfers to local redevelopment authorities for economic development purposes.

Clearly, this hierarchy of property disposal priorities is inconsistent with the intent of both the President's Five Point Plan and the Pryor Amendment. As noted above, the principle goals underlying the President's Five Point Plan and the Pryor Amendment were rapid redevelopment and job creation. One would assume that, in order to accomplish these goals, a jobs-centered property disposal process would be created that would put local economic development and the local redevelopment plan as the first priority in making property transfer decisions. How, then, have these goals been acknowledged in the Interim Final Rule when community interests, as expressed through the local redevelopment plan, are given the lowest priority in the property disposal process?

The flawed property disposal process in the current Interim Final Rule would have a significant adverse effect on NAS Alameda. If, as is currently being proposed by the Department of the Navy, final property disposal decisions at NAS Alameda are made prior to the community

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Assistant Secretary of Defense for Economic Security

August 4, 1994

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completing its redevelopment plan (currently anticipated to be December 1995), the potential result will be that only a fragmented patchwork of land will remain for economic development purposes. This would preclude any opportunity to develop a coherent and economically viable redevelopment plan. To illustrate this point, we have attached a map depicting current property disposal requests that have officially been filed or, as in the case of the homeless interests, have been stated in a preliminary indication of interest.

The Interim Final Rule should be revised to permit the redevelopment authority to complete and submit its redevelopment plan before any final property disposal decisions are made. This policy would not prevent the Department of Defense, other federal agencies, or state and local agencies from submitting their potential interests in a base. Final property disposal decisions, however, would be deferred until the requests have been appropriately assessed in the affected community's redevelopment planning process. The redevelopment plan would either integrate compatible requests or demonstrate how certain requests, because they are inconsistent with the plan, would forestall economic development and job creation potential.

Advantages to Local Redevelopment Plan Priority

If one understands the process and work undertaken to develop a community-supported redevelopment plan, it is clear that this document can be an invaluable resource to all parties who may have an interest in the base, including the Department of Defense and other federal agencies, homeless providers, beneficial conveyance interests and ultimately, third party developers. The redevelopment plan represents a balancing of interests that acknowledges the constraints and opportunities of the base, measures the economic feasibility of converting the base to new uses, determines the marketing potential for the various potential uses for the base, considers the needs of the local homeless community, and finally, examines short-term opportunities and long-term goals of the community.

Preparation of the redevelopment plan involves several comprehensive analyses that can be valuable in making subsequent property disposal decisions. For instance, one focus of the redevelopment plan is an investigation of the existing conditions on the base, including the condition of the facilities, infrastructure, and utilities. Complementing this is a determination of the costs and processes required to upgrade these facilities to meet current building standards and codes, as well as an examination of the costs and processes required to operate these facilities. Another emphasis of the redevelopment plan is an analysis of the various federal, state, and local agency jurisdictions over the property. This provides information on the government policies which may affect eventual land utilization. Additionally, the redevelopment plan considers how environmental conditions on the base will affect its reuse, how elements of the natural environment will require protection, and how environmental clean-up activity will affect both the

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Assistant Secretary of Defense for Economic Security
August 4, 1994
Page 4

short term and the long term reuse of the base. The redevelopment plan also identifies future markets for industrial, commercial, residential, recreational, educational, and other potential uses for the base. This evaluation of market potential provides information that is essential to both a short term interim reuse marketing strategy and long term land utilization plan. In short, by permitting the local redevelopment planning process to precede final property disposal decisions, all interested parties will be in an improved position to make reasonable, balanced and well-informed requests for surplus base property.

Additional benefits to completing the redevelopment planning process prior to final property disposal should also be considered. First, the redevelopment plan balances the multiple interests expressed for the base. This balancing process integrates commercial and industrial interests with recreational, educational, residential and homeless interests. The resulting product is a vision of what the community feels is compatible with the surrounding environment. Second, the redevelopment plan, because it is structured around the reality of providing continuous and upgraded utility services, enhanced transportation and infrastructure improvements, and most importantly, a financing plan for public and private improvements, ensures that the economic vision of the future has reality as its basis. Finally, by going through the redevelopment planning process, local land use entitlements such as planning and zoning amendments can proceed. Base property is then greatly enhanced in value and is in a vastly improved position for third parties to express interest either for leasing or sale.

Failure to prioritize the local redevelopment planning process will have serious adverse effects on base reuse efforts. If, as the Interim Final Rule currently anticipates, third party sales are attempted prematurely, the likely result would be a breakdown in the relationship between the local community and the military departments. The Department of Defense will be perceived as making decisions for the community without allowing the community to participate in the process. More importantly, any interests expressed in base property will be poorly informed, since vast amounts of information on the physical condition of the property will be lacking. Potential offers will be subject to so many conditions that they will lack any real economically viable substance. A particularly adverse impact would be the effect on leasing activity during the period of advertisement and negotiations. Parties interested in interim leasing would be left with no choice but to defer any decision until property ownership is settled.

If the Department of Defense continues with its attempt to market base properties prior to the local redevelopment planning process running its course, the potential loss will be great and the gain very minimal. Indeed, the present Interim Final Rule recognizes this, stating that:

"Historically, the process of selling bases, or parts thereof, for fair market value has been time consuming and the proceeds from the few sales of base closure properties has been less than originally anticipated."

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Assistant Secretary of Defense for Economic Security
August 4, 1994
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One can only wonder, then, why a process which the Department of Defense knows to be unworkable is being proposed to continue in only a slightly modified form. It is critical that the Interim Final Rule be comprehensively revised in such a way as to require completion of the local redevelopment planning process prior to consideration of any final property conveyances (other than interim leasing).

Joint Relationship - Community and Military Cooperation

In addition to prioritizing the role of the local redevelopment planning process, the Department of Defense needs to consider a new paradigm in thinking with regard to other aspects of the base reuse process. The emphasis of this new approach should be a base reuse process that is equally advantageous to affected communities and the Department of Defense over the long term. That is, the base reuse process, as embodied in the Final Rule, should involve an informal joint venture relationship between the affected community and the military.

Maintenance and Operation Issues

One aspect of base reuse and redevelopment that would benefit from a joint venture type of relationship is the transfer of maintenance and operation responsibilities. The transfer of these responsibilities from the military to the affected community must be designed to be a seamless process. In creating rules to assure that this happens, one must recognize the ultimate goals of both parties. For the affected community, the goal in both the short and long term is to achieve a balance of economic development and job creation. For the federal government, the goal in the short term is to minimize maintenance and operational costs through early transfer of responsibility, and in the long term, to assure that economic recovery and job creation are achieved so that the tax base is expanded. In devising base reuse procedures, long term goals must not be sacrificed to short term, and shortsighted, results.

An informal joint venture relationship would be particularly valuable in determining the timing and scope of maintenance and operation transfer. The Department of Defense and the military departments must join with the affected community to ensure that facilities are maintained and grounds are kept in a quality condition while interim tenants are found for the base. Transfer of maintenance and operation should not be forced on a community until it can be demonstrated that it is financially and logistically capable of assuming the responsibility. At a minimum, the military must remain responsible until a substantial portion of the property has been conveyed. If there is an arbitrary cut-off date for

Assistant Secretary of Defense for Economic Security
August 4, 1994
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maintenance and operation, and the community and utility service providers are not capable or prepared to assume responsibility, the likely result will be a long term loss of marketing potential for the base.

Personal Property Issues

The process for disposition of personal property could also be improved through a cooperative relationship between the military departments and affected communities. It is critical that personal property conveyance decisions are timed to conform with the local redevelopment authority's completion of a redevelopment plan. As part of the process of devising a redevelopment plan, an assessment of the personal property will take place that will analyze the potential value of this equipment to reuse efforts. The community must be given adequate time and information to make the critical decision regarding which existing equipment is vital to the implementation of its marketing strategy. Personal property disposal decisions should ultimately be based on a demonstration within the redevelopment plan that the community can utilize the property. If the redevelopment plan can make a reasonable argument for retaining personal property to ensure economic recovery, the Department of Defense and the military departments should acknowledge this priority.

Interim Leasing Issues

An informal joint venture type of relationship would also facilitate the interim leasing process. At present, the Interim Final Rule is virtually silent regarding interim leasing. Nevertheless, interim leasing represents the greatest potential to accomplish early economic revitalization and job creation in affected communities, and the potential for an early termination of the military department's obligation for maintenance and operation responsibilities. In many cases where prior uses of base property were industrial or commercial, there is a likelihood of prolonged environmental clean-up and restoration before final property transfer can occur. For these properties, interim leasing is the lifeline to reutilization. The Interim Final Rule needs to be revised to recognize this extremely important economic potential available to the community and the military.

Several provisions should be incorporated in the Interim Final Rule to enhance interim leasing potential. First, the procedures for interim leasing should allow for a long-term master lease to the local redevelopment authority so that it can, in turn, be responsible for the interim leasing process. Second, interim leasing guidelines should permit lease terms that extend well beyond one year. In many cases, interim lessees will

Assistant Secretary of Defense for Economic Security

August 4, 1994

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be required to make substantial improvements to bring existing facilities into compliance with building codes and to construct tenant improvements. In addition, lessees will incur substantial expenses in relocating and rehiring a new job force. Few firms will be willing to make this kind of substantial financial commitment if they do not have adequate time in which to amortize these expenses. Third, a mechanism should be provided for leases to convert to sales once the property is suitable for final transfer. Fourth, there needs to be a procedure for coordination with federal environmental agencies which have jurisdiction over environmental investigation and remediation. These investigation procedures and remediation standards must be anticipated prior to entering long term leases in order to assure the lessee of uninterrupted occupancy. Finally, the Department of Defense should adopt standard procedures and policies for lease provisions that will encourage the lending community to participate in the interim leasing process. Protection of the lenders which finance these improvements, and warranties of habitability of the lease premises, will ultimately be required.

The Interim Final Rule should clearly distinguish between interim leases made prior to final property disposal and those made after. This is particularly true with respect to the financial arrangements between the local redevelopment authority and the Department of Defense. In the current Interim Final Rule it appears that interim leases prior to final property disposal will be made without a rent sharing arrangement. The economic incentive for the military department is the relief from continued maintenance and operating costs. Leases made after final property disposal, however, involve a sharing of the net operating profit, with 40% of proceeds going to the Department of Defense. Both requirements seem reasonable, but the Interim Final Rule should clarify the necessary requirements for pre- and post-disposal leases.

Profit-Sharing Issues

A cooperative relationship should also extend to resolution of profit-sharing issues. In particular, the Final Rule should provide that profit-sharing will be calculated on a cumulative basis for the entire base as opposed to as individual buildings or land parcels are sold or leased. Additionally, when determining the net sales and lease proceeds for base properties, the Department of Defense and the military departments need to reach a consensus with affected communities as to acceptable types of community operating and capital costs that will represent reasonable community expenses for marketing, maintaining and developing the base facilities. Each base will have its own set of unique circumstances affecting the rebuilding of infrastructure, supplying of future utilities, and the rehabilitation and/or construction of new facilities. The proposed General Services Administration Regulations: Federal Property Management {41 C.F.R. §101-47;

Assistant Secretary of Defense for Economic Security
August 4, 1994
Page 8

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Utilization and Disposal of Property] does not sufficiently address the variables that will come into play in determining all of the factors that will calculate into a reasonable profit sharing arrangement. There needs to be a flexible process for the community and the military department to mutually agree on a base-specific formula that can adequately address the multitude of variables that will need to be addressed when ultimately determining a 60-40 net profit split.

Conclusion

The Alameda Reuse and Redevelopment Authority acknowledges that the task of writing the Final Rule is extremely difficult, yet the application of the Final Rule has tremendous national importance. Therefore, the Final Rule needs to be written with a viewpoint of practicality and applicability in order to allow for economic and financing feasibility when implementing the community redevelopment plan. Experts in their respective fields, such as real estate development organizations (e.g., Urban Land Institute), the lending community, and the accounting field, should be quickly assembled to assist the rule drafters to assure that the final product is satisfactory to a broad spectrum of disciplines.

The future success of base conversion at NAS Alameda depends, to a great extent, on having the intent of the President's Five Point Plan and the Pryor Amendment carried out to its fullest extent. Only this will ensure that the community's interests are given proper priority and that economic recovery and job creation can succeed.

Very truly yours,

E. William Withrow, Jr.
Chair
Alameda Reuse and Redevelopment Authority

cc: Mr. William Perry; Secretary of Defense
Senator Dianne Feinstein
Senator Barbara Boxer
Senator David Pryor
Representative Ronald Dellums
Representative George Miller
Representative Nancy Pelosi



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**SOUTH CAROLINA COORDINATING COUNCIL
FOR ECONOMIC DEVELOPMENT**

August 3, 1994

Mr. Joshua Gottbaum
Office of the Assistant Secretary of Defense
for Economic Security
Room 3D854
The Pentagon
Washington, DC 20301

Dear Mr. Gottbaum:

Enclosed are comments from the State of South Carolina on the Department of Defense's proposed Interim Final Rule to Title XXIX. You have also received comments from the Myrtle Beach Air Base Redevelopment Authority, which is the community redevelopment organization for the former Myrtle Beach Air Force Base, and Trident's BEST Committee, which is the planning organization for redevelopment of the Charleston Naval Base.

Though each of these closure communities and the State have submitted different comments, we support all the recommendations and comments given. We also share the conclusion that the procedures for economic development conveyance and personal property conveyance, as outlined in the proposed Interim Final Rule, are detrimental to base redevelopment. The negative economic impact of any military installation's closure warrants consideration for discounted conveyance, particularly when a base's infrastructure will require significant upgrading and repair before the private sector can use it for job creating activities. The proposed Interim Final Rule would deny most communities this opportunity. Next, using the Department of Defense to determine the marketability of the property takes control of redevelopment away from the community.

We do not believe the proposed Interim Final Rule will assist communities in realizing the objectives of President Clinton's Five Point Plan. The purpose of Title XXIX was to enable redevelopment; but the proposed Interim Final Rule does not, in our interpretation, promote rapid job creation under a community's redevelopment plan. Enforcement of these regulations will lengthen the timeframe between closure and re-use. Also, the acquisition of personal property by the community does not appear to be enabled through the proposed Interim Rule.

An economic development conveyance should be a conveyance option for each and every community that has experienced closure of a military installation. The discount for property conveyed through this method, repayment to the federal government, and use of this option should be equitable for all parties. The proposed Interim Rule does not offer these flexibilities.

Mr. Joshua Gottbaum
August 3, 1994
Page 2

The comments submitted by Myrtle Beach and Charleston, as well as those attached, provide specific alternatives to DoD's proposals. Testimony for the state will also be offered at the Public Hearing on August 5. These alternatives offer compensation to DoD and enable the affected community to control its destiny.

We request your serious consideration of these recommendations and those submitted by other communities and organizations throughout our nation.

Sincerely,



Haidee Clark Stith
Director
A Division of the Department of Commerce

HCS:mjh

cc: The Honorable Strom Thurmond
The Honorable Ernest Frederick Hollings
The Honorable John M. Spratt
The Honorable Arthur Ravenel
The Honorable Floyd D. Spence
The Honorable James E. Clyburn
Robert Bayer
C. Ronald Coward
Harold C. Stowe

**Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward Comments to: Office of Assistant Secretary of
Defense for Economic Security
3-D814, The Pentagon
Washington, D.C. 20301-3300

From: State of South Carolina
(Activity/Location/Community/Installation/Group)

Page: 16126
Column: 3
Paragraph: iii

Recommended Changes: Delete reference to DoD informing community if economic development conveyance is considered.

Why: The choice to utilize public benefit economic development conveyance (as opposed to other kinds of public benefit conveyances or public sale) should be the community's decision. The President's Five-Point Plan clearly rests redevelopment responsibilities for former installations on the community in which the installation is located.

Historically, decisions on base redevelopment for replacing jobs and economic growth have been the responsibility of the community.

Name: Haidee Clark Stith, Director
Address: South Carolina Coordinating Council
P.O. Box 927
Columbia, S.C. 29201
Phone: (803)737-0095
(NOTE: LIMIT TO 1 COMMENT PER PAGE)

**Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward Comments to: Office of Assistant Secretary of
Defense for Economic Security
3-D814, The Pentagon
Washington, D.C. 20301-3300

From: State of South Carolina
(Activity/Location/Community/Installation/Group)

Page: 16126
Column: 3
Paragraph: iii

Recommended Changes: Delete reference to "existence of a ready market" by DoD.

Why: DoD should utilize appraisals to establish the value of the property to be conveyed, and the mechanism used should be mutually agreed upon with consideration given for functional and economic obsolescence of structures.

The determination that a ready market exists is the responsibility of the community redevelopment agency and will be articulated in the community redevelopment plan.

DOD and the community can then work together to determine the most reasonable and acceptable method for determining value. There are many different, but widely recognized appraisal/valuation methodologies. Because each base situation is different, this approach allows flexibility for the DOD and community.

Name: Haidee Clark Stith, Director
Address: South Carolina Coordinating Council
P.O. Box 927
Columbia, S.C. 29201
Phone: (803)737-0095

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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From: State of South Carolina
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Page: 16126
Column: 3
Paragraph: iii

Recommended Changes: Change prohibition of public and private development group involvement to allow participation of public and private developers.

Why: Bona-fide economic development can only occur with participation of the private sector. Public development corporations, such as are already recognized and supported by the US Department of Commerce and US Department of Housing and Urban Development, also bring a significant resource to the economic development arena. These developers bring financing mechanisms and access to investors that a community redevelopment organization cannot establish alone. Prohibiting involvement of these economic development enablers will deprive communities of valuable tools that can assist them in meeting the objectives of the President's Five Point Plan.

Name: Haidee Clark Stith, Director
Address: South Carolina Coordinating Council
 P.O. Box 927
 Columbia, S.C. 29201
Phone: (803)737-0095
 (NOTE: LIMIT TO 1 COMMENT PER PAGE)

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From: State of South Carolina
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Page: 16126
Column: 2
Paragraph: i

Recommended Changes: Include economic development conveyances as one of many types of public benefit conveyance; not separate. Sentence could read: "Options for property redevelopment and conveyance of property, especially public benefit conveyances which include economic development, airport, health, education and other public use transfers, should all be considered early by the community in its redevelopment planning."

Why: All types of conveyance of surplus federal property should be considered simultaneously during the development of the redevelopment plan.

Name: Haidee Clark Stith, Director
Address: South Carolina Coordinating Council
P.O. Box 927
Columbia, S.C. 29201
Phone: (803)737-0095
(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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3-D814, The Pentagon
Washington, D.C. 20301-3300

From: State of South Carolina
(Activity/Location/Community/Installation/Group)

Page: 16130
Column: 3
Paragraph: 3

Recommended Changes: Delete all reference to DoD marketing and advertising property. We interpret the Congressional intent to retain responsibility for this with the community. After the community redevelopment plan is completed and only if the plan fails to become implemented within a specified time period, or if the plan recommends DoD offer the installation property for public sale, should DOD or the military justifiably assume this role.

Why: Choosing re-use options, marketing the property and advertising property should be the responsibility of the community redevelopment organization. Giving the community a reasonable time (at least five to fifteen, depending on environmental considerations) to show progress on implementation of the redevelopment plan is consistent with the President's policy and DoD policy stated in the Interim Rule. Should DoD engage in marketing and advertising closed installations, an adversarial relationship could develop with communities. DoD's role in marketing and advertising should only be created at the request of the affected community.

Name: Haidee Clark Stith, Director
Address: South Carolina Coordinating Council
P.O. Box 927
Columbia, S.C. 29201
Phone: (803)737-0095
(NOTE: LIMIT TO 1 COMMENT PER PAGE)

**Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward Comments to: Office of Assistant Secretary of
Defense for Economic Security
3-D814, The Pentagon
Washington, D.C. 20301-3300

From: State of South Carolina
(Activity/Location/Community/Installation/Group)

Page: 16131
Column: 1
Paragraph: 4

Recommended Changes: Delete section.

Why: Installations that have recognizable value and ready markets should have the option to be conveyed through economic development conveyance through the community's redevelopment authority. Consideration for discount from fair market value can be determined by the DoD, based on the agreed upon value for the property with consideration for functional and economic obsolescence of structures. Costs for needed infrastructure improvements and other costs that the community must incur to complete re-use should be deducted from the final remittance to DOD. Also, the six month screening by DoD could cause the loss of legitimate job creating offers.

Name: Haidee Clark Stith, Director
Address: South Carolina Coordinating Council
P.O. Box 927
Columbia, S.C. 29201
Phone: (803)737-0095
(NOTE: LIMIT TO 1 COMMENT PER PAGE)

**Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward Comments to: Office of Assistant Secretary of
Defense for Economic Security
3-D814, The Pentagon
Washington, D.C. 20301-3300

From: State of South Carolina
(Activity/Location/Community/Installation/Group)

Page: 16131
Column: 2
Paragraph: 5

Recommended Changes: Delete paragraph #5.

Why: It is appropriate to expect a Secretary to approve a community's or DoD's decision within 60 days, however, since the preceding actions by DoD as articulated under the proposed rule have been recommended for deletion, this section does not apply.

Name: Haidee Clark Stith, Director
Address: South Carolina Coordinating Council
P.O. Box 927
Columbia, S.C. 29201
Phone: (803)737-0095
(NOTE: LIMIT TO 1 COMMENT PER PAGE)

**Comments On The Interim Rule
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From: State of South Carolina
(Activity/Location/Community/Installation/Group)

Page: 16130
Column: 3
Paragraph: 2

Recommended Changes: The recognized community redevelopment organization should determine properties with potential for rapid job creation, not DoD.

Why: The community's redevelopment plan should demonstrate that the potential of job creating activities in re-use is a viable or distant opportunity. Local community redevelopment organizations will have the access to economic development studies and marketing data that will enable them to make a realistic assessment of what properties on the base possess job creation potential. Any community in the United States will gladly share in profits from redevelopment of such properties. Unfortunately, many properties at former installations, though suited for industrial use, do not have the modern infrastructure and access to markets that other available industrial properties have. In order to capitalize on the assets of former installations, communities will be required to invest in infrastructure improvements and renovations to communications, utilities and buildings. Each community will offer unique facilities, yet each community will compete globally for a handful of industrial/job creating entities. An economic development conveyance should offer allowances for the flexibility needed in these diverse situations, with consideration given to subtract the community's redevelopment investments from any shared profits.

Name: Haidee Clark Stith, Director
Address: South Carolina Coordinating Council
P.O. Box 927
Columbia, S.C. 29201
Phone: (803)737-0095
(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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From: State of South Carolina
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Page: 16131
Column: 2
Paragraph: Section E

Recommended Changes: Rewrite to establish economic development conveyance as a method for DoD to convey properties to community redevelopment organizations or other designated redevelopment bodies, at a discount of up to 100%, with recoupment provisions for a division of net profit at a proportional value, with reductions for any capital investment, care and maintenance, marketing and other redevelopment costs, providing the property is redeveloped in a manner that promotes permanent, full-time job creation.

Why: This recommended change mirrors the President's Five Point Plan by putting communities first with an emphasis on rapid job creation. Should a community fail to successfully implement its redevelopment plan, DoD could always be available to offer the property at public sale. This recommendation also recognizes the enormous investment each affected community will have to make to prepare its former installations for global economic development competition.

Name: Haidee Clark Stith, Director
Address: South Carolina Coordinating Council
P.O. Box 927
Columbia, S.C. 29201
Phone: (803)737-0095
(NOTE: LIMIT TO 1 COMMENT PER PAGE)

**Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward Comments to: Office of Assistant Secretary of
Defense for Economic Security
3-D814, The Pentagon
Washington, D.C. 20301-3300

From: State of South Carolina
(Activity/Location/Community/Installation/Group)

Page: 16131

Column:

Paragraph: 6

Recommended Changes: Delete section.

Why: If rural areas deserve special advantages, then allow 100% discount or elimination of the recoupment requirement if communities meet rural community qualifications. The economic development conveyance should not be solely a rural community's advantage, however; rural communities possess special impediments that would qualify for additional considerations. Other federal assistance programs have established criteria for special consideration that may be applicable to DoD's interest in offering rural communities more support than urban.

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Page: 16132
Column: 3
Paragraph: iii

Recommended Changes: Delete section.

Why: The statement that DoD will keep a "great deal" is not specific: what is enough? All personal property, minus that which is essential for defense needs, should be kept at the base. No personal property should be moved before June 1, 1994 or after that date if the community has expressed a need or interest for the equipment.

We strongly recommend, for the 1995 BRAC list, that essential property for defense needs is identified in the military department's closure recommendations. From a community or state's point of view, it is difficult to justify the surplus nature of an installation in a closure recommendation and then suddenly have an urgent defense need for all of the personal property at that installation. If the DoD is indeed down-sizing, then the personal property at closing bases is as surplus as the base and its mission. If the personal property is essential, then the military department should recognize this value at the time they recommend the closure of the installation.

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(Activity/Location/Community/Installation/Group)

Page: 16134
Column: 3
Paragraph: h-6

Recommended Changes: Amend to allow separate consideration for discount conveyance of personal and real property.

Why: Each closing installation is unique, and personal and real property have different values and re-use possibilities. The military department and DoD should provide themselves the flexibility to allow different considerations in these individual situations. Separating the real and personal property does not mean that the real and personal property would always be considered separately. Some bases will have situations where conveyance of personal property at discount is justified, but the property should be conveyed at fair market value. The converse is also true.

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Address: South Carolina Coordinating Council
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Columbia, S.C. 29201
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Column:
Paragraph:

Recommended Changes:

Why:

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Address: South Carolina Coordinating Council
P.O. Box 927
Columbia, S.C. 29201
Phone: (803)737-0095
(NOTE: LIMIT TO 1 COMMENT PER PAGE)

THOMAS L. SEIFERT
ATTORNEY AT LAW
515 MADISON AVENUE
SUITE 2000
NEW YORK, NEW YORK 10022
(212) 310-0541

Stelen
Shur
1107

FAX (212) 735-0638
(516) 625-1685
(516) 625-1686

August 4, 1994

THE HONORABLE JOSHUA GOTBAUM,
ASSISTANT SECRETARY OF DEFENSE (ECONOMIC SECURITY)
THE PENTAGON, ROOM 3D814
WASHINGTON, D.C. 20301-3300

RE: COMMENTS REGARDING THE DEPARTMENT OF DEFENSE
INTERIM FINAL RULE FOR REVITALIZING BASE CLOSURE
COMMUNITIES AND COMMUNITY ASSISTANCE. (59 FR
16123) DATED APRIL 6, 1994

Dear Secretary Gotbaum:

I am the attorney for **SOUTH DADE COALITION FOR RECONSTRUCTION, INC.**, a Florida corporation ("SDCR"). On June 16, 1994 SDCR submitted a proposal (the "SDCR Proposal") to the Air Force Base Conversion Agency ("AFBCA") relating to Homestead Air Force Base ("Homestead"). Shortly thereafter, some minor revisions were made to the SDCR Proposal and such revisions were distributed to all parties and are incorporated in the copy of the SDCR Proposal annexed hereto as Exhibit A.

On April 6, 1994, the Department of Defense ("DoD") issued the Interim Final Rule For Revitalizing Base Closure Communities and Community Assistance (59 FR 16123) (the "Interim Final Rule") requesting public comments regarding the Interim Final Rule.

SDCR has the following comments regarding the Interim Final Rule. SDCR's comments are made in the context of the SDCR Proposal relating to Homestead:

1. Congress adopted Title XXIX of Public Law 103-160, 107 Stat. 1909, the Base Closure Communities Assistance Act, the so called Pryor

Amendment (the "Pryor Amendment").

2. The Pryor Amendment required the Secretary of Defense to write formal regulations to implement its provisions and the Interim Final Rule was adopted in response to this requirement.

3. The National Economic Council (the "NEC") established the following priority framework to be utilized in connection with base closures:

FIRST "-Where a ready market exists, sell properties quickly for public or private development to speed up job creation." (the "First Priority")

SECOND "-Where a ready market does not exist, make property available to the local redevelopment authority, without initial cost, for economic development." (the "Second Priority")

"-Share the net profits between the Department of Defense and the local redevelopment authority if a property conveyed without initial cost for economic development is subsequently sold."

These same priorities are also contained and reflected in the "Process Flowchart for Base Closure Community Assistance" which is contained in the Interim Final Rule (a copy of this Process Flowchart is annexed hereto as Exhibit B.) Based upon this established priority structure, if the criteria for a higher priority disposition of a base are met, there is no need (and, in fact, there should be no right) to select a lower priority disposition of a base.

In this regard, absent a strong and compelling showing to the contrary, the Pryor Amendment and the priorities set forth in the Interim Final Rule should be adopted in final form as set forth in the Interim Final Rule and, subsequently, strictly adhered to with respect to the disposition of all affected bases, including but not limited to, Homestead. The Pryor Amendment established a clear priority structure and this priority structure should be followed.

With respect to these priorities, it is critically important that the priorities established by the Interim Final Rule remain firmly in place

when the Interim Final Rule is adopted in its final form. The entire concept and reason behind all of the base closures was both to cut costs as well as to generate positive cash flow for the Federal Government. If these priorities are not maintained, the effect will be to create an entirely new level of government welfare system whereby the governments at the Federal, State and Local levels will be called upon to subsidize (through grants, aid, low cost loans, tax credits, aid and other similar governmental incentives or inducements), indefinitely, the attempts by various well-intentioned groups to utilize the various closed bases for their purposes.

To close these bases for the sole purpose of reducing costs and generating revenue and then to turn around and allow the base closures, themselves, to become an income drain on the various levels of government (rather than a source of initial and continuing income) is not only ludicrous, it would be sacrilegious and a disgrace against the honor of all of the military and civilian personnel that have been displaced and become unemployed as a result of these base closings. The sacrifices of these displaced personnel should not be in vain. None of us should lose sight of the goals and the purposes of the base closure legislation, i.e., cost reduction and income generation to the Federal government.

If these priorities are not maintained, the sole purpose behind the very legislation under which the Interim Final Rule has been adopted will be foiled. A rule of any kind should not, and must not be allowed to, totally subvert and frustrate the sole purpose of the very legislation the rule is intended to implement and enforce.

4. The SDCR Proposal meets the First Priority in connection with Homestead and, accordingly, under the Pryor Amendment, there should be no need to proceed further and consider other actions that clearly come within the Second Priority as it relates to Homestead.

5. On May 10, 1994, Dade County (as defined below) requested that the DoD grant a waiver from compliance with the application of the Pryor Amendment in connection with Homestead. SDCR has not yet received a copy of the Dade County May 10th request for waiver (the "Dade County Waiver Request") but SDCR has received a copy of DoD's response

("DoD's Response") to this request for waiver, a copy of which is annexed hereto as Exhibit C.

DoD's Response to the Dade County Waiver Request states that no waiver is required and that DoD "may proceed with disposal [of Homestead] as specified in your memorandum." (Even though the DoD Response is not technically a waiver of the Pryor Amendment and the priority structure, this action by DoD has the same effect as a waiver and, for convenience purposes, the DoD Response to the Dade County Waiver Request is referred to herein as the "Homestead Waiver.")

6. First, it should be noted that the Homestead Waiver appears to be based upon incorrect factual assumptions. Second, the DoD's actions in granting the Homestead Waiver do not appear to be clearly authorized by the Interim Final Rule. In any event, the Homestead Waiver results in reversing the established priorities set forth above without any good cause being established for such a reversal.

Stated another way, the waiver of the Pryor Amendment has the effect of selecting the Second Priority over the First Priority with respect to Homestead. Perhaps such a reversal of a clearly mandated priority system could be justified if there were clear and convincing evidence to support action which is in contravention of this clear mandate. Unfortunately, no such showing has been made. To the contrary, it is respectfully submitted that a clear and convincing case has been established that requires strict adherence to the Pryor Amendment and the existing priority structure.

7. In this respect, it should be sufficient to show that no good cause or no clear and convincing evidence has been established or presented as a basis for granting of the Homestead Waiver. But the Homestead situation is even worse. Not only is there no reasonable basis for the Homestead Waiver, the facts in the present Homestead situation are a clear vindication of the appropriateness of following the Pryor Amendment and choosing the First Priority.

The Homestead Waiver results in not only a reversal of established priorities but also in a substantial loss to the Federal government of millions of dollars in initial and downstream compensation. The substantial losses to governmental entities does not end there. Transferring Homestead to

Dade County will not return Homestead to the real estate tax roles of Dade County. Transferring Homestead to SDCR would result in Homestead being added to the Dade County real estate tax base and generating millions of dollars of real estate taxes. A transfer of Homestead to Dade County will also, most likely, result in no or substantially lower income tax revenues being generated at all governmental levels where income taxation is applicable.

8. It is perhaps useful in the context of the disposition of Homestead to take notice of the actions that have been already taken by the Metro Aviation Subcommittee of Metro Commission of Dade County and the Metro Commission (collectively, herein "Dade County"). That is to say, although SDCR is not aware of any official DoD action in this regard, Dade County advises that it has been appointed as the "redevelopment authority" for Homestead and Dade County has been conducting itself as if it has already been appointed the redevelopment authority for Homestead. Although this may be presumptuous on the part of Dade County, their conduct does offer a useful insight into what Dade County would do with Homestead if Dade County were, in fact, appointed the redevelopment authority.

9. Last month, Dade County held hearings at which SDCR and Homestead Air Base Development, Inc. ("HABDI") made proposals to Dade County with respect to the utilization of Homestead. SDCR's Proposal was rejected and, instead, Dade County granted HABDI the right of first refusal to develop the civilian portion of the converted base. Annexed hereto, as Exhibit D, is a comparative analysis (the "Dade County Comparative Analysis") prepared by Dade County's own Aviation Department (the "Dade County Aviation Dept.") of the SDCR and HABDI proposals together with copies of newspaper accounts which discuss the selection of HABDI even though the HABDI proposal, in the opinion of SDCR, was clearly smaller in scope and the weaker of the two proposals. In addition to the comparison of the two proposals, it should also be noted that HABDI has, in the opinion of SDCR, not established any creditable financial basis that it could effectuate the proposal which it made. After reviewing the Dade County Comparative Analysis, there can be little or no discussion that the SDCR proposal is clearly and obviously superior to the HABDI proposal.

For the purposes of commenting on the Interim Final Rule, it is not necessary to go into a complete and thorough analysis or comparison of the

two proposals at this time. Suffice it to say, the granting of the first refusal right by Dade County to HABDI is a clear example of what was intended not to have happen when the NEC established its priority framework. Stated another way, Dade County would probably be in a more defensible position regarding Homestead if it had taken no action vis s vis Homestead, but once the action was taken, there is no reason to ignore Dade County's actions or the import thereof. (In this regard, the Dade County Comparative Analysis of the two bids presents a very compelling argument in favor of the SDCR Proposal and, SDCR believes that a careful review of this analysis will be very useful to all concerned parties.)

In analyzing the application of the Pryor Amendment to the Homestead disposition, it is important to keep in mind the fiduciary duty and responsibility of governmental agencies at all levels to their respective tax payer constituencies to take into consideration all of the following factors before a final decision is made regarding the disposition of Homestead:

1. the costs and benefits of each proposal to the Federal, State and Local governments;
2. the jobs created by each proposal;
3. the income tax, real estate, and other tax revenues generated by the effectuation of each proposal; and
4. the need, if any, of the successful bidder to rely upon Federal, State or Local government grants, low cost loans, tax credits, aid or other similar governmental incentives or inducements required to effectuate the successful bidder's proposal.

(In this regard, please note that the HABDI proposal, according to Dade County, it self, requires the use of federal funds and grants, i.e., it is possible that the HABDI proposal will not generate any compensation to the involved governmental entities, and, if fact, will cost the Federal, State and Local governments monies as compared with the SDCR Proposal which contemplates initial as well as downstream compensation to the Federal government.)

Even the Dade County Comparative Analysis (prepared for and by Dade County) appears to strongly favor the SDCR Proposal. This analysis is so obviously in favor of the SDCR Proposal that, assuming that Dade County is fulfilling its fiduciary obligation in this regard, it is difficult to understand what factors caused Dade County to reject the SDCR Proposal in favor of an inferior proposal.

In any event, Dade County's actions in this regard and the Dade County Comparative Analysis offer ample indication that the Homestead Waiver should be rescinded and that the Pryor Amendment should be strictly followed, at least, in the connection with the disposition of Homestead.

10. One additional comment should be made regarding the Interim Final Rule. The definition of "redevelopment authority," states,

"Any entity, including any entity established by a State or local government, recognized by the Secretary of Defense as the entity responsible for the developing the redevelopment plan with respect to the installation and for directing implementation of the plan."
(Emphasis added)

This definition could not be more clear or precise. "Any entity, including any entity established by a State or local government," clearly means that both governmental and non-governmental (i.e., private entities) can be "redevelopment authorities."

Nevertheless, unfortunately, the mindset or the personal prejudices of many individuals with whom SDCR has met, at both the Federal, State and Local government levels as well as private individuals outside of government, is such that there appears to exist in many individual's minds an unstated presumption that a "redevelopment authority" must be a governmental entity. That is to say, on numerous occasions, well-meaning and well-intentioned individuals would say to SDCR, in the context of the intended meaning of the definition of "redevelopment authority,"

"oh well, everyone knows that they are referring to a governmental entity or a political subdivision of a governmental entity."

Such is not the case; nor was this the intended result. Nevertheless,

in order to make the definition absolutely clear and to remove the "gloss" that has been placed on this definition, apparently further emphasis and refinement appears necessary to make clear and unequivocal that privately organized entities (such as SDCR) can qualify as redevelopment authorities.

CONCLUSIONS:

1. The priority framework established by the NEC, as set forth in the Interim Final Rule, should be adopted and become a part of the rule in its final form.
2. The Pryor Amendment should be strictly adhered to, at least, in the context of the disposition of Homestead.
3. The action by the DoD in connection with the Homestead Waiver should be rescinded.
4. The SDCR Proposal should be accepted.
5. The definition of "redevelopment authority" should be revised and refined to make clear that private entities can qualify as a "redevelopment authority".

SDCR stands ready to answer any questions regarding these comments and the Interim Final Rule and SDCR looks forward to a meaningful discussion with all interested parties with respect to the disposition of Homestead. In this regard, please contact the undersigned at 212-310-0541 (Fax: 212-735-0638) or Mr. John S. Grace at 516-686-2211 (Fax: 516-626-7839).

Very truly yours,



Thomas L. Seifert

CC: The Honorable Dr. Sheila D. Widnal
The Secretary of the Air Force
SAF/MI
1660 AF Pentagon - Room 4E1020
Washington, D.C. 20330-1660 (With enclosures)

The Honorable Rodney A. Coleman
Assistant Secretary of the Air Force
1660 AF Pentagon - Room 4E864
Washington, D.C. 20330-1660 (With enclosures)

Mr. Patrick W. McCullough
Program Manager, Southeast Region
Headquarters Air Force Base Conversion Agency
Headquarters AFBCA/SE
1700 North Moore, Suite 2300
Arlington, VA 22209-2802 (With enclosures)

South Dade Coalition for Reconstruction, Inc. (Without enclosures)

South Dade Coalition for Reconstruction, Inc.
55 Brookville Road
P.O. Box 163
Glen Head, NY 11545

TEL: 516-686-2224
FAX: 516-626-7839

June 16, 1994

VIA FEDERAL EXPRESS

Mr. Patrick W. McCullough
Program Manager, Southeast Region
Headquarters Air Force Base
Conversion Agency
Headquarters AFDBA/SE
1700 North Moore, Suite 2300
Arlington, VA 22209-2802

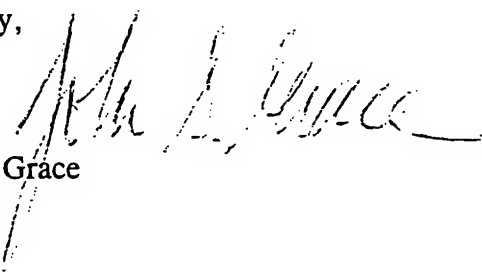
Dear Mr. McCullough:

We are pleased to submit for consideration by the Secretary of the Air Force and the Air Force Base Conversion Agency our proposal for a Community Stock Conversion Plan for Homestead Air Force Base.

The proposal is the culmination of nearly two years of work by numerous people. The redevelopment program proposed by SDCR offers, we believe, the greatest benefits for those who, in general, are most affected by base closings: the members of the surrounding community. We are looking forward to the opportunity of setting a precedent with respect to redevelopment of military bases and to working with community leaders to help bring about a revitalization of Homestead.

I look forward to discussing the proposal with you. Please feel free to contact me at any time should you like clarification of any points or if I might otherwise be of any assistance.

Sincerely,


John S. Grace

Enclosure

cc: Ms. Mayra Bustamante
Metropolitan Dade County Aviation Department

bcc: Senator Connie Mack c/o Mitch Bainwol

**COMMUNITY STOCK CONVERSION PLAN
FOR HOMESTEAD AIR FORCE BASE**

HOMESTEAD, FLORIDA

Prepared by:

South Dade Coalition for Reconstruction, Inc.

June 16, 1994

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

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COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

I. SUMMARY OF PROPOSAL TO THE DEPARTMENT OF DEFENSE

■ Dual Use Airport

In this proposal to the Department of Defense ("DoD"), the South Dade Coalition for Reconstruction, Inc. ("SDCR") is seeking to convert to community ownership the surplus property at Homestead Air Force Base (the "Base") through the issuance of shares in a community stock offering. The surplus property is the approximately 2,000 acres of the Base not retained by the Federal Government. SDCR has obtained a commitment for a financial underwriting from certain members of the Grace family. SDCR will commence the development and operation of the Base as a dual use airport (military/civilian) in conformance with the proposed military usage and the *Homestead Air Force Base Re-Use & Economic Redevelopment and Implementation Plan ("Re-Use Plan")* prepared by the Beacon Council for Dade County.

■ Two-Phase Development

SDCR is committed to developing the Base through a two-phased process. In Phase I, SDCR will redevelop the ramp runway frontage, including the building and operation of a passenger terminal serving international and domestic flights; supervise the reconstruction of Hanger 741; repair for operation Buildings 745, 750, 775, 779, 920, and 2736; rehabilitate and directly operate warehouses in Buildings 618 and 624; and build-to-suit a cargo transfer facility. Lockheed Air Terminal, Inc. a unit of Lockheed Corporation, has submitted to SDCR a proposal for managing the passenger terminal and related operations.

In Phase II, SDCR plans to develop the remainder of the Base incorporating as a guide the *Re-Use Plan* developed by the Beacon Council.

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

- Consideration to the DoD

SDCR proposes to purchase the fee simple interest in the Base from the DoD through either of two payment structures:

Option 1: \$3,000,000 in full payment; \$1,000,000 cash and \$2,000,000 in 5% Redeemable Preferred Stock of SDCR.

Option 2: Four-year warrants to purchase \$5,000,000 of Common Stock of SDCR at the issue price in the community stock offering. Assuming a minimum issue of \$15,000,000, this would be equal to 33 1/3% of the beginning equity balance.

- South Dade Coalition for Reconstruction, Inc.

SDCR was founded for the purpose of creating a private "community-owned" company which will participate in the redevelopment and operation of Homestead Air Force Base. The Founder, Chairman and President of SDCR is John S. Grace, who oversees and invests the financial assets of certain members of the Grace family of Florida and New York, including several major real estate ventures and investment partnerships. Several seats on the Board of Directors of SDCR are reserved for SDCR investors from the local community.

- Financing - Community Stock Offering

The project will be funded principally through a community offering of stock to provide a means for direct transfer of the Base to local community ownership. SDCR will commit to offer a total of \$60,000,000 of its common stock and will seek a listing of its common stock on a national securities exchange or "over the counter" market as soon as practicable. To show their commitment to the project, Sterling Grace Corporation and various Grace family entities will financially underwrite 25% of the total offered shares, which will guarantee that a minimum of \$15,000,000 of private capital will be invested in the portion of the installation to be disposed of by the DoD.

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

■ Benefits

The development plan proposed by SDCR will lead to the creation and entry of new businesses in the area. The result will be a significant increase in employment opportunities created directly by the SDCR plan. SDCR estimates \$45,860,000 in annual compensation for employment opportunities will be created.

SDCR believes the community will be best served by having the Base operated by the private sector. As a better alternative to a business owned and operated by the Government, the community would own the private entity and participate through profits and value appreciation from the redeveloped installation. This would create and maximize economic wealth in a community once destroyed by a natural disaster without relying upon additional Federal Government grants. The proposal offered by SDCR will actually decrease the burden to the Federal taxpayer.

Since the value of the Base and the new businesses will be translated into market value of publicly traded SDCR common stock as the business expands, the effect of increased financial strength and value to the community stakeholders will have a multiplier affect in the community, similar in nature to the government multiplier factor of six (6)¹. The annual economic benefit using the government multiplier effect of six (6) times the annual compensation estimate translates into \$275,160,000 of annual economic activity generated.

The community will, in the long-run, benefit from other rewards of the private enterprise, including greater competition, a more efficient pricing structure for aviation services, no conflicts of interest from locally run government departments, relief of public funding, management incentives to control costs, a greater real estate tax base, and reduced government bureaucracy.

It is the intent of SDCR to prove that major defense base redevelopment on a direct community stock ownership basis is feasible in the United States, thereby allowing the Federal Government to redeploy its valuable resources towards communities which are unable to attract private capital.

¹ Numerous studies on the stimulative effects of additional spending by the Federal Government have shown that a \$1 increase in Federal outlays results, ceteri paribus, in an increase of \$6 in Gross Domestic Product.

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

II. DEVELOPMENT COMMITMENT

SDCR proposes to convert to private use, develop and operate the surplus land and buildings on the Homestead Air Force Base. The area declared surplus is designated by the attached map in Appendix A. The total area is the approximately 2,000 acres not retained by the Federal Government to support the U.S. Customs, the Air Force Reserves, and the Florida Air National Guard.

A. The Development Plan

In consideration for the transfer of the entire property in fee simple, SDCR would commit to the following development plan involving two phases:

Phase I:

- Build and operate with Lockheed Air Terminal, Inc. a domestic and international passenger terminal with a minimum of 15,000 square feet under roof to be provided for use to Kiwi International Airlines (Kiwi) and other carriers to be determined. Kiwi estimates 195 jobs will be created with annual wages/salaries ranging from \$16,000 to \$42,000 at the commencement of operations, increasing to 350 jobs at this salary range by the end of one year. (Please refer to Appendix C and D.)
- Operate warehouse and storage facilities in Buildings 618 and 624. Grace Property Management, Inc. estimates that 100 jobs will be created with annual wages/salaries ranging from \$15,000 to \$35,000 with an average of \$20,000. (Please refer to Appendix E.)
- Build a new cargo transfer facility suitable for a to be determined operator. In a leasing proposal to SDCR, Manhattan Area Post, Inc. estimates that 40 jobs will be created initially with annual wages/salaries ranging from \$16,000 to \$40,000. (Please refer to Appendix F.)
- Supervise reconstruction of Hanger 741, and rebuild Buildings 745 and 750 for aircraft and engine maintenance operations as well as metal fabrication to be managed by units of Lockheed Support Systems, Inc. A minimum of 150 jobs will be created by the use of these facilities.

SDCR

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

Phase I: (continued)

- Rehabilitate Buildings 779, 778 and 775 for lease to a general aviation operator and an aviation school, Malloy Air East, Inc. ("Malloy") Malloy estimates that 40 jobs ranging in salary from \$18,000 to \$75,000 will be created initially, and after two years the total will grow to 80 jobs. (Please refer to Appendix G.)
- In the event of the opening of normalized relations with Cuba, SDCR will immediately develop a facility to handle at least one Havana-Miami shuttle airline. Job estimates will be determined at such time.²
- BX Mart/Building 920 and Building 914. Immediately upon signing a definitive agreement, SDCR will commence a feasibility study to link the proposed BX Mart to Building 914 with a row of small stores to create a strip shopping center with the BX Mart as one anchor and Building 914 as another anchor facility. Grace Property Management, Inc. estimates this center would employ 450 people at annual wages/salaries averaging \$22,000.
- With management assistance from Grace Property Management, Inc., which operates the Fox Squirrel Country Club at Boiling Springs Lakes, North Carolina, SDCR will commit to rehabilitate the golf club facility (Building #2736) and rejuvenate the golf course. SDCR estimates that the course and club house will employ 35 people at an average annual wages/salary of \$18,000.

2

SDCR believes that Homestead could become a major provider of service if relations are normalized. As was the case with the fall of the Berlin Wall, normalization will occur suddenly and the Base should ideally be converted before this event occurs.

SDCR

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

Phase II:

Once the Phase I development plan is well underway, SDCR will commence development of the Phase II area north of the Phase I area. SDCR will commit to follow the plan for general development prepared by the Beacon Council *Re-Use Plan* as commissioned by Dade County. In addition to the aviation-related industrial projects, SDCR will target industries including agro/industry, telecommunications, and tourism.

Phase II development projects include the following:

- 1) 500 unit wholesale/retail farmers market - Grace Property Management, Inc. estimates this will create 1,000 jobs. (Please refer to Appendix E.)
- 2) 150 room hotel/convention center to be situated near the existing golf course - Grace Property Management, Inc. estimates this will create 110 new jobs.

As mentioned in the Beacon Council report, SDCR believes that the opportunity to develop the Phase II area provides the necessary incentive for SDCR to give the commitments to implement the Phase I plan. SDCR is confident that it can attract Fortune 400 users to develop important large scale facilities to the Base if it is willing to offer developed industrial sites with access to the airport facility and the Florida Turnpike. SDCR believes this will bring the largest number of jobs in the shortest period to the community.

The following table summarizes SDCR's preliminary estimates of employment created by the development proposal. SDCR estimates that the proposal could generate \$275,160,000 in annual economic activity after one to two years.

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

Table 1
JOB CREATION SUMMARY

<u>New Business or Operation</u>	<u>Initial Start-Up Jobs</u>	<u>Jobs After One Year Successful Operation</u>	<u>Average Annual Salary and Benefits*</u>	<u>Total Estimated Annual Salaries After 1-2 Years</u>
<u>PHASE I</u>				
Terminal and Related Operations Aircraft and Engine Maintenance (741, 745, 750)	195	350	\$30,000	\$10,500,000
Warehouses 618 and 624	25	100	23,000	2,300,000
Cargo Transfer Facility	10	20	21,000	420,000
General Aviation and Flight Educational Center	40	80	27,000	2,160,000
Courier Service	20	40	25,000	1,000,000
BX Mart/Building 920, 914 and Stip Stores	400	450	25,000	11,250,000
Golf Club, Building 2736	11	35	20,000	700,000
Cuba Shuttle (Proposed)	N/A	N/A	N/A	N/A
Subtotal Phase I	701	1,075	\$26,350	\$28,330,000
<u>PHASE II</u>				
Farmer's Market	500	1,000	\$15,000	\$15,000,000
Hotel/Convention Center	60	110	23,000	2,530,000
Subtotal Phase II	560	1,110	\$15,790	\$17,530,000
TOTAL PHASE I and PHASE II	1,261	2,185	\$20,990	\$45,860,000

* Benefits are estimated at 15% of annual salary except in the case of the farmer's market.

NOTE: Annual economic benefit using the government multiplier affect of six (6) times \$45,860,000 equals \$275,160,000 of economic activity. The preceding table excludes the economic benefits of the appreciation of the stock issued in the community stock offering.

SDCR

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

III. BENEFITS OF PLAN

A. Benefits to the Local Community and Dade County

SDCR's community and development plan for the Base would provide a significant stimulus to the economy of the south Dade County area and the communities of Homestead and Florida City. As previously discussed, significant employment opportunities will be created starting with the construction phases and continuing on a permanent basis with the operation of all the facilities. Both skilled and trade workers will be employed in permanent positions. Educational facilities emphasizing training programs would be a high priority.

The privatization of the Base through a community offering would offer the local community the greatest benefits through SDCR's direct ownership opportunity. The result would be immediately increased financial capital to the area in the form of appreciated stock ownership as well as continuing financial asset growth as the new business emerges. In addition to the benefits of private investment, the advantages to the community which would be obtained from this proposal include the following:

- Providing a means of overcoming public funding short falls, spending caps and competing public needs.
- Reduced cost and investment from the Government.
- Increased tax revenues from property taxes.
- Reduced strain on Dade County bonding capacity.
- Reduced air passenger, cargo and auto traffic congestion at Miami International Airport.
- Reduced noise and air pollution in greater Miami from the number of planes entering Miami International Airport which would be able to land at Homestead.

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

The proposal includes new businesses entering the County. Appendices C to G contain letters from five different new businesses who have already proposed to operate out of the Base under SDCR's leadership. Each has proposed to immediately employ personnel. Many other businesses have expressed an interest in operating on or near the Base location.

Support services from local businesses will flourish. These opportunities include:

- Increased patronage for existing hotels and a greater incentive for new hotels to locate to the area. The golf course on the Base is a prime location for a hotel/convention center.
- Increased usage of car rental and transportation services.
- Increased development of tourist related services such as retail, food, tour buses, and taxis.
- Increased market for fresh produce for which the community is famous. It should be noted that Kiwi International Airlines only serves fresh produce for inflight passenger food service.

B. Benefits to the Federal Government

The primary benefits to the Federal Government would be the reduction in cost and investment in the Base, which would relieve the budgetary constraints. SDCR believes that its conversion plan for the Base and investment by the community through a community offering would be a model not only for future base closings, but the primary example of a successful transition from public to private sector ownership and operation. We believe this concept is at the forefront of a wave of future community conversions which will greatly impact the future strength of the United States economy.

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

IV. CONSIDERATION TO DoD AND FINANCING

A. Consideration to DoD

SDCR proposes two optional, mutually exclusive payment structures to DoD.

Option 1:

- Pay \$1,000,000 in cash to the Department of Defense.
- Issue \$2,000,000 of redeemable convertible preferred stock to DoD convertible into common stock after ten years. The exercise price will be set initially at the issue price and will increase annually by the greater of 5% per year or the consumer price index.

Option 2:

- SDCR to issue four-year equity warrants for \$5,000,000 of SDCR common stock at the issue price in the community stock offering. Assuming a minimum issue of \$15,000,000, this would be equal to 33 1/3% of the beginning equity balance. The warrants issued to DoD would give DoD its proportionate share of all the profits derived from appreciation of:
 - Land
 - Improvements made with shareholders' funds
 - Improvements made with lenders' funds
 - "Going concern value" of the enterprise created by a combination of the above and the management team.

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

B. Financing

- SDCR agrees to offer the local community and the Grace family entities up to \$60,000,000 of common stock. The local community will be offered a minimum of \$45,000,000 of common stock at the same price paid by the founders of the company. SDCR has a financing proposal from entities controlled by members of the John Grace family to purchase up to \$15,000,000 of equity in SDCR. This financial commitment will guarantee the successful completion of the underwriting and the payments of cash and/or securities to the DoD.
- SDCR has received an underwriting offer from Adams Cohen Securities, Inc. to manage the community stock offering. Adams Cohen is the national leader in the management of community offerings for stock conversions and has successfully raised over \$3 billion for savings banks in such offerings since 1984. (Please refer to Appendix B.)
- SDCR commits to apply for listing of its common stock on a national securities exchange or "over the counter" market as soon as practicable.
- It should be noted that the Federal Government has accepted preferred stock or warrants as consideration for government property or guarantees on numerous occasions in the past. Successful transactions have included:
 - Chrysler Corporation
 - Lockheed Corporation
 - Continental Illinois Bank
 - Bank of New England
 - New Dartmouth Savings Bank
 - First City Bank of Texas
 - First NH Bank

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

C. Redevelopment Authority - (Optional to DoD)

SDCR is willing to accept the responsibility of becoming the "redevelopment authority" for the installation if requested by the DoD at no cost to the Federal taxpayer.

SDCR believes that through its commitment to underwrite a community stock offering, it is the vehicle which most efficiently brings the Base into direct ownership by the community members. SDCR believes the community members will greatly benefit from this unique opportunity and will take enormous pride in holding stock in their airport development, much as citizens take pride in owning a portion of a community bank.

The Defense Authorization Amendments and Base Closure and Realignment Act states under "Definitions":

The term "redevelopment authority," in the case of an installation to be closed under this title, means any entity³ (including an entity established by a State or local government) recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation and for directing the implementation of such plan.

We have reviewed the *Re-Use Plan* prepared by Beacon Council, and we concur in the general concepts. We are prepared to follow the general development concept outlined in the document. SDCR will work closely with Dade County on zoning and redevelopment planning to ensure the rapid development of the Base.

³ SDCR's emphasis

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

D. Base Conversion Legal Issues

Concurrently with the drafting of a binding commitment between DoD and SDCR, SDCR will use its best efforts to agree to flexible modifications to this proposal to DoD in order to comply with any legal obligations of DoD to:

- Homeless providers
- Dade County
- Labor Department Job Corps.
- Any other government entities considering Homestead Air Force Base

In order to utilize the property to its highest and best use, every effort will continue to be made to coordinate with Dade County to best maximize utilization of the facilities to enhance development of the installation. It is the goal of SDCR to provide a safe place for millions of tourists and travellers entering the area and to provide a safe environment which will attract major employers who will bring numerous jobs to the Base.

E. Operating Agreement with Air Force Reserves and Florida Air National Guard

SDCR will enter into an operating agreement with the Air Force Reserves, the Florida Air National Guard, and any other entities operating on the Base to cover SDCR's use of the runway and other jointly used infrastructure on the Base. SDCR will commit to pay its fair share of such costs.

F. First Refusal on Remaining Cantonment Area

In return for the payments of cash or securities and the development commitments, SDCR would also receive the right of first refusal to purchase real property deemed surplus at Homestead which is currently retained by the DoD.

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

G. Due Diligence and Definitive Agreements

The proposals, estimates and commitments contained herein: (a) do not represent legally binding obligations and are subject to the satisfactory completion of due diligence investigations by the respective parties making such proposals, estimates or commitments (as determined in the sole discretion of such parties) and (b) are subject to the negotiation, execution and delivery of definitive agreements and documents in forms that are mutually acceptable to each of the respective parties thereto.

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

V. COMMUNITY OFFERING FOR STOCK CONVERSION DESCRIPTION

The Community Offering for Stock Conversion ("Conversion") is not a new concept in the United States. From 1983 to 1987, nearly 600 mutually owned banking institutions have converted to stock ownership, involving over \$7 billion in new capital as reflected in Table 2 on the following page. All of the conversions were approved by various agencies of the Federal Government.

The process begins when an institution's management and owners decide that they want to convert their ownership to stock form. This occurs at a time when the institution is in urgent need of capital to continue its normal line of business or when a healthy institution desires to expand.

The institution offers shares to its depositors (if it is a bank) and also to the local community. In return for providing the desperately needed working capital, the new shareholders own the resulting stock company. The company benefits because it can then survive with the inflow of capital and start to prosper. It is also fortunate to have its local community as shareholders, rather than nameless people living perhaps thousands of miles away.

For the new community stockholders of the entity it is advantageous because they - the local community members - turned around what was once an ailing business in the heart of their community. This also improves the value of neighboring assets. Furthermore, the community holds shares which are appreciating, thereby increasing the net worth of the stockholders. This increase in net worth has a multiplier affect which translates into a much healthier economy for the entire community.

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

Table 2
BANKING INSTITUTIONS
CUMULATIVE NUMBER OF
CONVERSIONS AND GROSS PROCEEDS

<u>YEAR</u>	<u>GROSS PROCEEDS US\$*</u>	<u>NUMBER OF CONVERTING INSTITUTIONS**</u>
1987	\$2,500,000,000	125
1988	700,000,000	73
1989	400,000,000	37
1990	500,000,000	68
1991	375,000,000	73
1992	850,000,000	105
1993	<u>2,100,000,000</u>	<u>109</u>
TOTAL	<u>\$7,425,000,000</u>	<u>590</u>

* From SNL Monthly Market Report, February, 1994 p.3

** From SNL Monthly Market Report, May, 1994 p. 26

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

VI. MANAGEMENT

A. South Dade Coalition For Reconstruction, Inc.

SDCR was founded for the purpose of creating a private "community-owned" company which will participate in the redevelopment and operation of Homestead Air Force Base. The Founder, Chairman and President of SDCR is John S. Grace, who oversees and invests the financial assets of certain members of the Grace family of Florida and New York, including several major real estate ventures and investment partnerships.

<u>Title</u>	<u>Name</u>
Chairman	John S. Grace
President & CEO	John S. Grace
Managing Director	Wiley R. Reynolds
Aviation Director	Richard C. Peck
Vice President, Finance	Lola N. Grace
Vice President, Engineering	A. Zafer Nashashibi
Vice President, Planning	Davis P. Stowell
Economic Research Analyst	Christine Dienhart
Controller	Robert Field, CPA
Secretary	Annette Martin

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

B. Sterling Grace Corporation and Affiliates ("Grace")

The business of Sterling Grace Corporation, its affiliates, and its predecessor companies date back to 1885. The original business was oriented to stock brokerage and international investments.

In 1983, Sterling Grace and Company, Inc. formed Grace Geothermal Corporation to purchase, operate, and further develop Shell Oil's geothermal division. This consisted of 110 megawatts of capacity to service electrical needs of San Francisco Bay area communities in Northern California.

During Grace's ownership, the capacity of the area was increased by an additional 130 megawatts to a total of 240 megawatts. This is enough capacity to provide electricity for a population of 240,000 Americans.

Grace Property Management, Inc. is one of the Grace family affiliates. Grace Property Management, Inc. currently owns and manages a 350,000 square foot warehousing facility in metropolitan Los Angeles catering to distribution, trucking and warehousing firms. Until 1991 the facility was also the Southwest manufacturing and distribution center for what is now the nation's largest manufacturer of plastic foam cartons.

Grace Property Management, Inc. also jointly owns and operates a 700,000 square foot enclosed shopping mall in Mesquite, Texas, a suburb of Dallas. In addition to the mall, facilities include:

- 100,000 square foot exhibition center
- Full service state-of-the-art bowling alley
- Cinema multiplex
- 500 booth retail crafts center
- Indoor/outdoor farmers market

In North Carolina, the company operates a 15,000 acre golf course development highlighted by a several mile long man-made recreational lake in the town of Boiling Spring Lakes, south of Wilmington.

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

Grace Development, Inc. is the developer of 180 acres adjacent to the former air base in Smyrna, Tennessee. Grace believes this will enormously augment the amount of employment in the Smryna vicinity. A specialist in educational real estate development and management, Grace also owns and manages quality apartment complexes and retail facilities surrounding Vanderbilt University in Nashville. Grace is also managing single family and attached multi-family residential developments in Salt Lake City, Utah and Charleston, South Carolina.

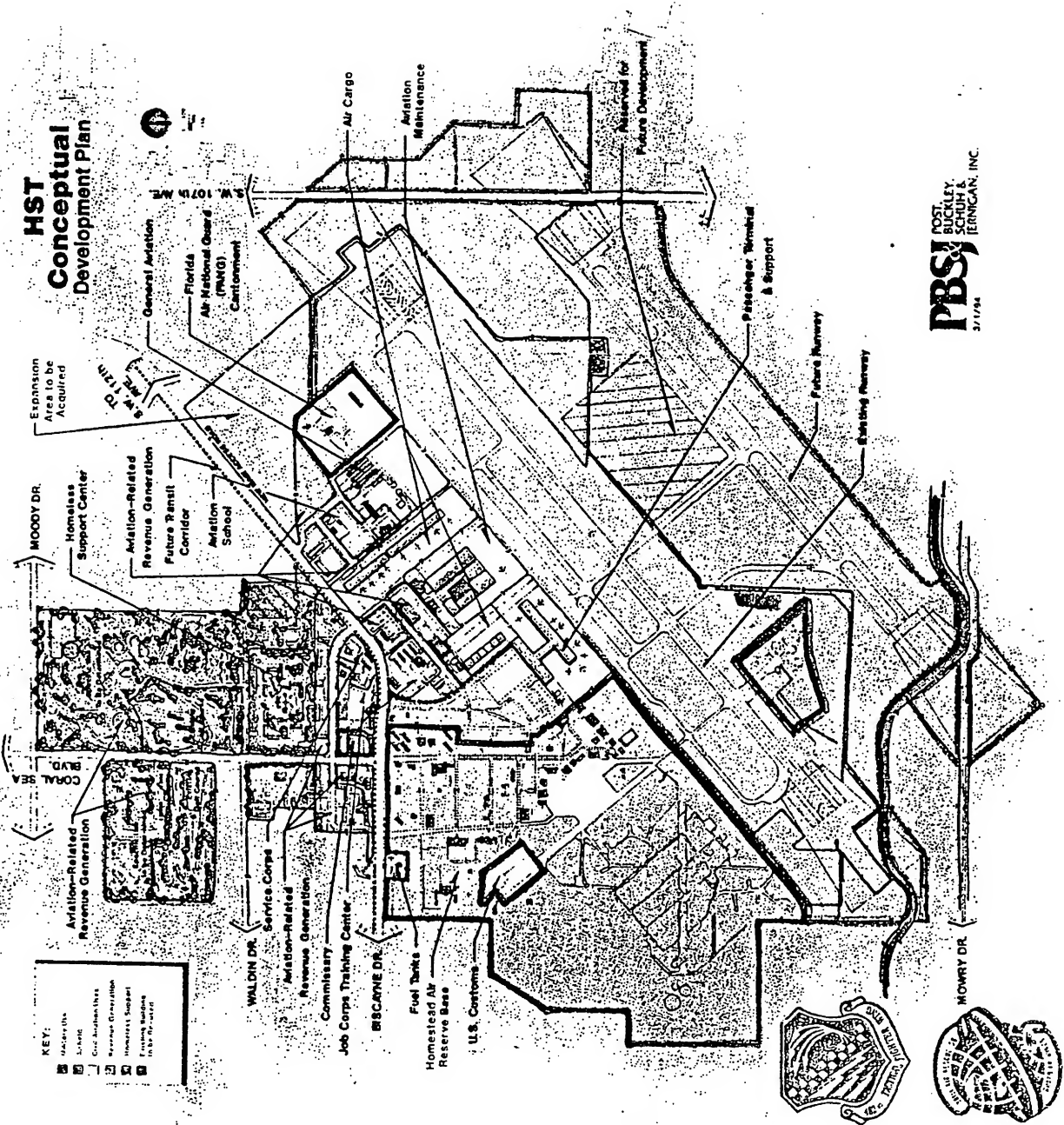
Rural Cellular Companies

During the past three years, members of the Grace family group have developed cellular telephone service under Federal Communications Commission licenses in rural areas of Michigan, North Carolina, and Louisiana.

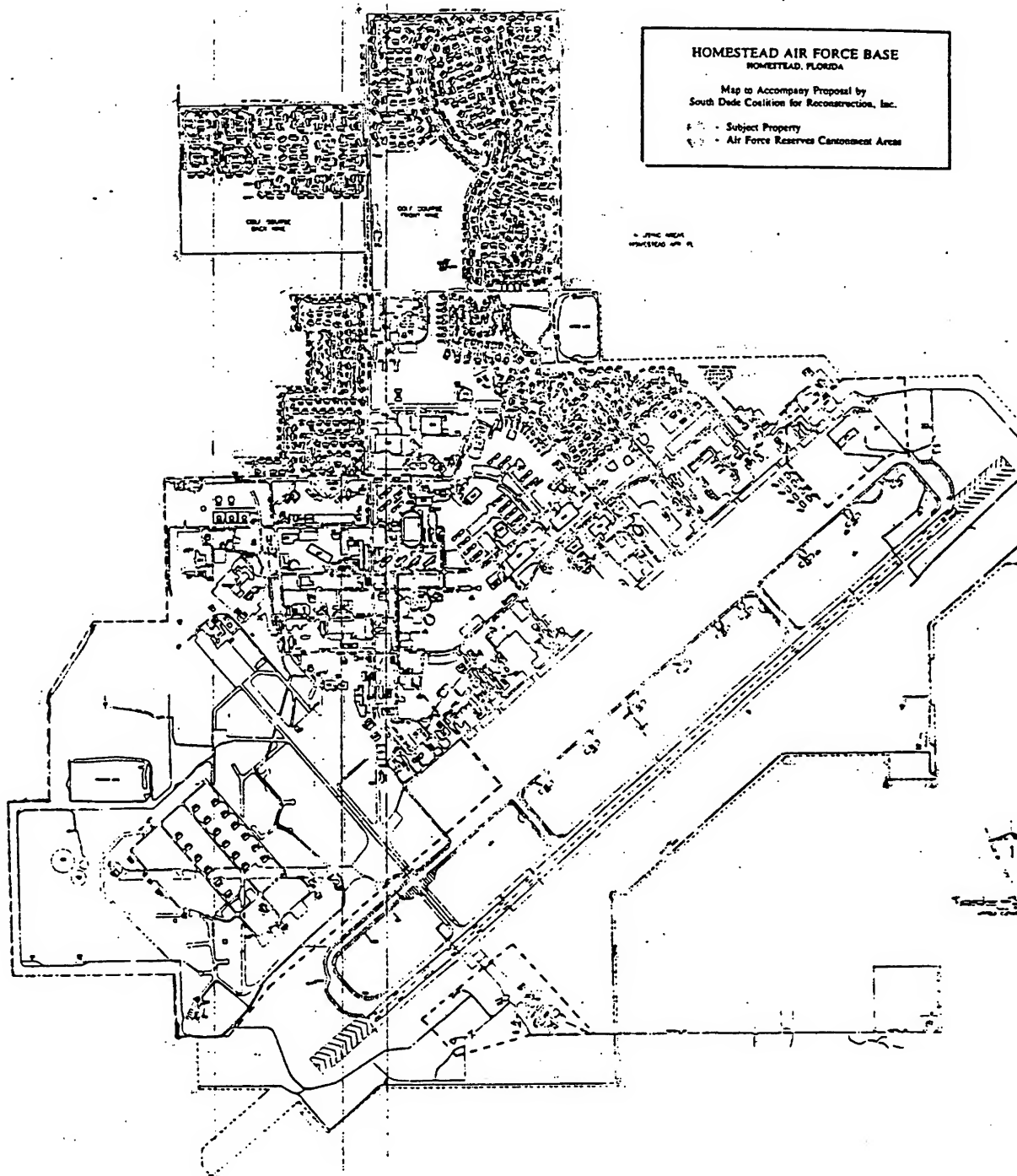
Investment Partnerships

Grace also manages four investment partnerships which invest in hundreds of securities issues internationally. Grace incorporated and invested in two bank restructurings from the Federal Deposit Insurance Corporation (F.D.I.C.) - New Dartmouth Savings Bank in New Hampshire, and Peninsula National Bank in Palos Verdes, California. The New Dartmouth Savings Bank issued preferred stock as consideration to the F.D.I.C.

HST Conceptual Development Plan



PBS
POST-
BUCKLEY,
SCHUH &
TERNIGAN, INC.



COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

WILEY R. REYNOLDS, III

Wiley R. Reynolds, III is a third generation Floridian and has been engaged in commercial and residential real estate development for the past twenty-five years.

The Reynolds family was in the banking business in the early days of Florida and held substantial interests in numerous banks around the state, including the first National in Palm Beach, the former First National of Miami, and Southeast Bank Corporation.

Mr. Reynolds has been involved in many community service projects in South Florida. He is currently President of the Rehabilitation Center for Children and Adults in Palm Beach, a member of the Board of Directors of the Raymond F. Kravis Center for the Performing Arts, The Royal Poinciana Chapel, and The National Board of Visitors of the AOPA Air Safety Foundation.

Mr. Reynolds has a Bachelor of Science degree from the University of North Carolina, is a licensed commercial helicopter and airplane pilot. He is married and has two sons.

COMMUNITY STOCK CONVERSION PLAN FOR HOMESTEAD AIR FORCE BASE

LOLA N. GRACE

Experience

1993 - Present

Peninsula National Bank, Director, Palos Verdes, California

Incorporator and Director of \$50 million commercial bank acquired from the OTS in May 1992. Chairman of the Audit Committee, member of the Loan Committee. Actively involved in organizing and structuring bank as well as operating decisions.

1991 - 6/94

New Dartmouth Savings Bank, Director, Manchester, New Hampshire

Incorporator and Director of \$1.7 billion savings bank formed by the merger of three savings institutions in New Hampshire and acquired from the FDIC in October 1991. Member of the Strategic Planning and Audit Committees. Ex-officio member of the Loan and Compensation Committees.

1988 - Present

Sterling Grace Capital Management, Managing Director, Brookville, N.Y.

Evaluate and direct investments into limited partnerships focusing on private equity transactions, initial public offerings with an emphasis on financial institutions.

1988 - Present

Value Management Inc., President, Manalapan, FL.

Provide financial consulting to various Grace family entities as well as direct private investments. Manage personal investments.

1983 - 1987

The First Boston Corporation, Investment Banking, New York, N.Y.

Performed general corporate finance and merger and acquisition advisory work for financial institutions and Fortune 500 clients. Assignments included public and private debt and equity offerings, asset backed securities and merger advisory work.

1982 (summer)

Lehman Brothers Kuhn Loeb, Foreign Government Advisory Group, New York, N.Y., Paris and Gabon

Represented Lehman Brothers on a team of international investment bankers also including Lazard Freres and S.G. Warburg. Advisory assignment to the Government of Gabon on infrastructure development. Prepared a feasibility study of the palm oil industry in Gabon and presented recommendations to government officials.

1979 - 1981

Morgan Stanley, Inc., Financial Analyst, New York, N.Y.

Corporate Finance and International Departments.

Education:

MBA 1983 Stanford Graduate School of Business

M.A. 1983 Stanford University, Food Research Institute (Developmental Economics)

B.A. 1979 Stanford University, Economics

Other Board Appointments:

1994 - Present

East Woods School, Trustee: Private school board in Oyster Bay

1994 - Present

The Society of Memorial Sloan-Kettering, Director

1990 - Present

International Council for Women In the Arts, Director

Greenville Baker Boys and Girls Club, Past Director

Process Flowchart for Base Closure Community Assistance

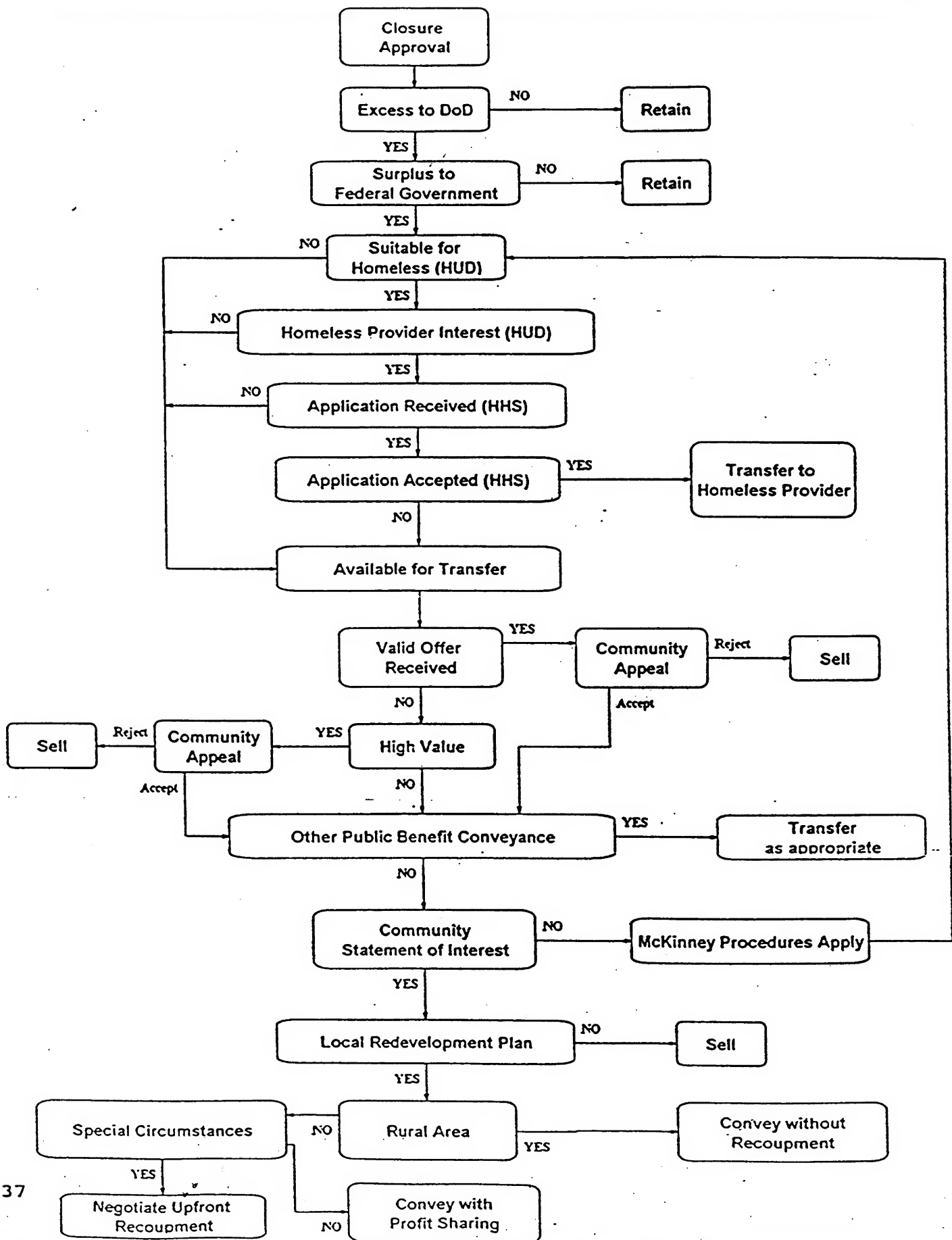


EXHIBIT C



ECONOMIC SECURITY

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
3300 DEFENSE PENTAGON
WASHINGTON, DC 20301-3300



08 JUN 1994

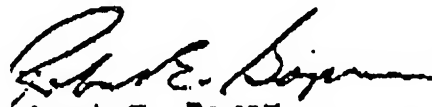
MEMORANDUM FOR ASSISTANT SECRETARY OF THE AIR FORCE (MANPOWER,
RESERVE AFFAIRS, INSTALLATIONS, AND ENVIRONMENT)

SUBJECT: Waiver of Jobs-Centered Property Disposal at
Homestead AFB, Florida

This refers to your memorandum of May 10, 1994, supporting the Dade County, Florida request for the subject waiver. We have reviewed the request and have determined that due to the current situation at Homestead, a waiver of the Jobs-Centered Property Disposal provision (32 CFR section 91.7(d)) of the interim rule is not required. The Air Force and the Homestead Reuse Authority may proceed with disposal process as specified in your memorandum.

Section 91.7(d)(4) of the interim rule, in discussing the requirement to continue the market survey for property with known high value, states "airport, port and school property may be excluded if it appears that they are likely to be converted to public airports, ports or schools under existing public benefit conveyance programs." Although this exclusion is not expressly stated in the initial requirement to conduct a market survey, its inclusion in the extension of the market survey is an acknowledgement that as the local planning progresses, proposed reuses will become known and a policy decision that those reuses relying on public benefit conveyances for airports, ports or schools should not be upset.

The community has made great progress in its plans for the redevelopment of Homestead. With the property outside the Air Force Reserve cantonment going to other Federal agencies for Federal use or for Federally sponsored public benefit conveyances, it appears that there will not be any property left for public sale or for an economic redevelopment conveyance under the community's plan. Therefore, a market survey need not be performed.


Robert E. Bayer
Deputy Assistant Secretary of Defense
for Economic Reinvestment and
Base Realignment and Closure

Comparative Analysis

HABDI (Clayton Rudd)

SDCR (Grace Co.)

ONE

106 Acres

TWO

Investment of \$10 million for painting facility plus \$6 million+ for refurbishment. Capital to come from federal funds, grants & investors (unidentified).

THREE

Privately held corporate entity.

FOUR

Financial responsibility of investments (outside of the 106 acres) will remain with Dade County. Inside 106 acres, Dade County involvement to secure grants required.

FIVE

Florida Aviation expertise represented.

SIX

Associated Companies include Allied Aviation (FL), First Class Aircraft and Miami NDT.

SEVEN

Minority business involvement for non-destructive testing.

Entire Base - comprehensive, unified development plan as set forth in the Re-Use Plan approved by the Commission, Dec., 1993

Investment of \$60 million offering to the community with \$15 million of guaranteed private capital. (Does not rely on government funds.)

Local Board of Directors with national figures.

Financial responsibility no longer with Dade County.

International, National and Florida Aviation expertise represented.

Associated Companies include Lockheed, Kiwi International Air Lines, "Citipost" Courier, Malloy Air East and Grace Property Management.

Minority business involvement for aircraft servicing.

Direct Benefits to Local Community

HABDI (Clayton Rudd)

SDCR (Grace Co.)

EIGHT

895 new/higher paying jobs.

2,185 new/higher paying jobs.

NINE

Annual economic impact of \$161,100,000.

Annual economic impact of \$275,160,000.

TEN

Relieving Miami International of some capacity.

Relieving Miami International of some capacity.

ELEVEN

Additional sales and income tax revenue generated.

Additional sales and income tax revenue generated.

TWELVE

Not Applicable.

Local "ownership" of Homestead Air Reserve Base and sharing of wealth creation.

Cumulative net income to the Aviation Department will be approximately \$24,000,000 by the year 2015. This includes a cumulative net loss of approximately \$3,800,000, minimally, over the first five years. Included in this are the revenues to be derived from the HABDI proposal.

In contrast, the South Dade Coalition for Reconstruction, Inc. proposal would eliminate the financial burden to the County. Revenues to the County's Aviation Department would be based on a percentage to be negotiated.

Entrepreneur has big plans for air base

By LISA ARTHUR
Herald Staff Writer

A New York businessman says he has a plan for the reuse of Homestead Air Force Base that will bring commercial flights from Newark and Chicago, as well as other aviation jobs to South Dade.

All that, he says, will be off the ground within two years of getting a go-ahead from Dade County and the Department of Defense, a much-accelerated timetable than the one predicted by the county's reuse plan.

John S. Grace, a distant cousin of Peter Grace, chairman of the internationally known W.R. Grace & Co. of Boca Raton, will pitch his plan today to the Metro-Dade Commission Aviation Committee, Commissioners, Air Force officials and neighbors of the base call the proposal intriguing.

"It takes a huge financial burden off the county if it works," said Pat McCullough, southeast region program manager for the

Air Force Base Conversion Agency.

"If you believe that private industry gets things done faster than government, then you have to believe the redevelopment would go faster this way."

But without an endorsement from Metro, McCullough said, Grace's plan will remain grounded.

The plan calls for Metro to lease the base to a community-owned corporation — South Dade Coalition for Reconstruction Inc. — that would oversee the civilian development of a joint-use airfield. A \$60 million public stock offering would generate seed money.

Various Grace entities — W.R. Grace & Co. is not involved — would put up \$15 million. The \$45 million balance would come from investors that Grace says he hopes will include neighbors of the base.

"We want this to be a community-

PLEASE SEE HOMESTEAD, 38

New York businessman has big plans to revamp Homestead Air Force Base

HOMESTEAD, FROM 1B

nity-driven project," said Grace, chairman of Sterling Grace Corp. in Glen Head, N.Y. "We want the community to take ownership of this."

Grace and his associate Wiley R. Reynolds, a Palm Beach businessman, have been hovering around the base conversion since shortly after Hurricane Andrew. They met with various officials and neighborhood groups as early as July 1993. Their written proposal finally made its way to the Air Force and Dade County last week.

Interested tenants

Some officials expressed early skepticism over Grace's ability to find local investors to put up \$45 million for an investment that will have a 20-year return at best. Others are waiting to see his proposal.

Grace has letters of interest from potential tenants, including Kiwi International Air Lines, Lockheed Air Terminal Inc. and Lockheed Support Systems Inc., Clitpost air courier service, and Malloy Air East Inc., a general aviation operator.

The finer points — such as what management fee the Grace-run corporation would charge, how much it would pay to lease the land from Dade County and what tax incentives it's looking for — are not spelled out in the proposal.

Commissioner Pedro Reboredo, head of Metro's Aviation Committee, believes private sector proposals like Grace's may get things moving in Homestead faster.



"Those are all things that would have to be negotiated," said Grace, who met two weeks ago with staff of the Metro aviation department. Both Myra Bus-tamante, who oversees the Homestead conversion for the aviation department, and airport director Gary Dellapa were on vacation last week. Neither could be reached for comment.

Support for private sector

McCullough said the Grace plan appears to implement the reuse plan created by the county and the Beacon Council. It includes space for homeless housing and a Job Corps program.

Metro Commissioner Pedro Reboredo, chairman of the Aviation Committee, agrees the private sector can get things done faster.

"Time is gold here," he said. "We need to get this Homestead

deal moving. Anything that might produce a net income to the county aviation department and promotes a quick recovery in Homestead is something we have to look closely at."

Steve Cramman, chairman of the Perrine-Cutler Ridge Council, a neighborhood organization, said he would rather see someone like Grace develop the base than leave it in the county's hands. Community groups in South Dade have criticized Metro and Beacon Council for not lining up more business for the battered region.

"I don't see any real businesses going into that county plan," he said. "I see a bunch of social services going in, and that's not going to replace the jobs that were here before. If an agreement is done between the county and Grace — or whoever winds up representing the private sector — we would be 100 percent behind that."

Entrepreneur's air base plan shot down by panel

By LISA ARTHUR
Herald Staff Writer

A New York entrepreneur who flew into town Monday with big plans for redeveloping Homestead Air Force Base had his wings clipped.

The Metro Aviation Subcommittee unanimously passed a resolution giving the right of first refusal for developing the civilian portion of the converted base to Homestead Air Base Developers Inc., a group of local developers that had previously expressed interest in only 106 of the 900 acres still up for grabs. The resolution is only a recommendation. The full Metro Commission will hear the proposal today.

"I'm exasperated," said John S. Grace, a Glen Head, N.Y., developer and distant cousin of the chairman of W.R. Grace & Co., an investment holding company. "The main criticism we heard was that we are not local. It was put to us that they are not interested in people not from Dade County investing in Dade County."

Grace said he will wait and see what happens at today's Metro meeting before deciding his next move. Commissioners suggested HABDI negotiate with Grace to come up with a combined effort.

HABDI, which has support from the Latin Chamber of Commerce and is headed by Carlos Herrera, a Miami real estate developer, has not submitted a formal proposal for the entire base, said Myra Bustamante, who is overseeing the base conversion for Metro's Aviation Department. But the group does have tenant commitments from three Dade aviation entities that specialize in aviation maintenance. Until Monday, HABDI had not submitted a formal business plan or identified its investors.

"It didn't dawn on me that they would want the whole thing," Bustamante said.

Virgilio Perez, a Miami developer on the board of the Latin chamber and a HABDI investor, said his group didn't realize the whole base was available.

TODAY AT METRO

Metro commissioners will take up a long list of issues today. The meeting begins at 9 a.m. at the Metro-Dade Center, 111 NW First St. in downtown Miami, and moves at 6 p.m. to American High School, 18350 NW 67th Ave. You can watch it on cable channel 34 on most Dade systems. On the agenda are proposals that would:

- Create a quasi-local government for Blockbuster Park, the planned sports and entertainment complex that would straddle the Dade-Broward county line. This portion of the meeting begins at 6 at American High.

- Ask voters to raise Metro commissioners' salaries, now \$6,000, to \$57,600.

- Cut the budget for Metro Commission offices by 4 percent.

- Ask voters to pay higher property taxes to pay for \$431 million in library, park and

museum improvements.

- Regulate moving companies. In particular, the law would require that movers give consumers written estimates — and then stick to them.

- Raise penalties for dog owners who fail to buy license tags for their animals.

- Allow contractors to apply for some types of building permits through the mail, instead of in person.

- Create a separate authority to oversee the redevelopment of the Overtown/Park West area.

"We had been talking to the county for a year in good faith and then Grace comes with this proposal and they are going to consider it," he said. "Can you imagine? We were shocked when we saw they were willing to give the whole thing to someone else."

Perez said HABDI would be willing to work with Grace, but added that the \$60 million stock offering Grace proposed to generate seed money "seemed like smoke and mirrors." The Grace plan called for his companies to purchase \$15 million in shares in a community-owned corporation

that would develop the base. The \$45 million balance would be offered to the public with an emphasis on local residents and businesses buying into the development, Grace said.

But many commissioners and HABDI officials think that is unrealistic.

"Are we going to wait for the tomato farmers in Homestead to buy \$45 million in stock?" Perez said. "A lot of outside investors, a lot of New York people would wind up owning that base. We want to keep the money in Dade County."

MIAMI TODAY

WEEK OF THURSDAY, JULY 14, 1964

TELEPHONE 358-2663

\$1.00

Dade assured of land for a Homestead airport

By LAURA IRWIN

Though Dade might not get all the land it desires at Homestead Air Force Base, the federal base disposal agency is assuring the county it will get enough to develop a viable airport.

"The odds are the Federal Aviation Administration and the county won't get 100% of what they want," said Pat McCullough, program manager for the Southeast Region of the Air Force Base Conversion Agency. "But we won't convey an airport that won't support itself. That is an absolute statement."

"We don't have a totally selfish interest in this," he said. "We require a viable airport out there in order for our reserves to operate economically. We'd be shooting ourselves in the foot if we didn't convey enough land."

Dade leaders became concerned recently that there would not be enough land left to successfully develop an airport after a number of organizations submitted requests for slices of the base.

The base conversion agency, which is required to consider all requests for use of the land but doesn't have to honor them, got more than 20 applications that totaled four times more land than available.

"We won't convey an airport that won't support itself. That is an absolute statement"
Pat McCullough

"Obviously it is impossible to grant every request," Mr. McCullough said. "Simple mathematics tells you that we are going to have to say no to requests for three out of every four acres."

"We will look to combine things, shrink requests in some places, and grow others. It is a complex negotiation."

Among those applying for the land are the Greater Miami Service Corps, the US Department of Labor's Job Corps, Miami-Dade Community College, Dade County schools, Florida International University, the University of Miami, the Homeless Trust, the Coalition for the Homeless and the Department of Corrections.

"It is harder to say no to some than to others," said Mr. McCullough. "To say no to the homeless we would have to go to the hill in our explanation. In other cases we would not have to be quite

as stringent."

Dade's plan is to turn the base into a joint-use airfield it will run. To succeed the county needs enough land to develop a regional hub with cargo buildings, an air maintenance base and other support facilities that will net profits through user fees and rent, said Alan Rubin, president of Defcon Development Corp., who has been instrumental in developing the base re-use plan.

The assumption was that the county would retain most of the land not being used by the military and rent whatever it didn't need for the airport to other agencies.

The military is taking up 885 acres. That leaves 2,055 for development.

How much the county really needs to develop a successful airport is unclear.

"There is what they want and what they need," Mr. McCullough said. "What they really need is what we are working hard to figure out. It's not something you do in one afternoon."

While the conversion agency still has a way to go in determining how exactly the property will be divided, Mr. McCullough said, it is aiming to complete a record of decision by the end of this month.

"More land would be better but if we do it smart and everyone works together I think we can do it"
Alan Rubin

"The pressure is on," Mr. McCullough said. "What we hope to do is to negotiate a very large long-term lease to Dade County within days after issuing the record of decision."

"Once that is done construction can start and the county can access grant monies available for development."

The record of decision is not expected to be final, and won't necessarily relate to the lease, he said. Normally more than one record of decision is required.

The record of decision could be amended each time property is conveyed that is included in the lease, Mr. McCullough said.

"We are convinced the agency is doing everything in its power to make this a successful conversion," Mr. Rubin said. "More land would be better but if we do it smart, and if everyone works together I think we can do it."

REGIONAL

The Herald

SECTION
SATURDAY,
JULY 23, 1994

B

WFO

Civilian might buy air base \$6 million bid for Homestead

By LISA ARTHUR
Herald Staff Writer

The Metro Commission hasn't heard the last of would-be air base developer John Grace.

The New York entrepreneur has bid \$6 million to the U.S. Air Force to buy Homestead Air Force Base outright, an offer federal officials say is "very much under consideration."

Air Force officials suggested that Dade County looked a gift horse in the mouth when it rejected Grace's earlier proposal to form a partnership. Some echoed a grass-roots outcry in South Dade this week criticizing the commission for "playing politics" when it dismissed the Grace proposal and gave a local group known as HABDI the first shot at the base.

"I think it is a terrific plan Grace offered Dade County," said Pat McCullough, the Air Force Base Conversion Agency's program manager for the Southeast. "I don't know how you could get a better deal."

The Homestead/Florida City Chamber of Commerce has taken the lead in the burgeoning South Dade insurgency over the Metro vote and already is circulating a petition addressed to McCullough. It calls the Grace proposal the best route for developing the base. Grace proposes converting the base to a commercial airport with flights from Newark and Chicago.

Grace said Friday he was heartened by the public support.

"I think one way or the other we'll wind up there because the people are recognizing the merit of what we offered," he said.

Kim Sova, president of the chamber, said she is building a coalition of business and neighborhood groups to lobby Washington. A community strategy meeting is planned for Wednesday.

"We feel it was a political decision that was made by the commission," Sova said. "It's a decision that is not quite in the interest of South Dade."

Mike Richardson, the Defense

\$6 million offered for Air Force base

AIR BASE, FROM 1B

Department's base transition coordinator for Homestead, said he has alerted Washington about his own concerns.

"I expressed my concern to them about the process by which the HABDI group was given the right of first refusal," Richardson said. He declined to be more specific.

Metro Commissioner Dennis Moss, who represents South Dade, said the commission opted to throw support to HABDI — Homestead Air Base Developers Inc. — because it's locally based.

"I wouldn't say that's politics so much," he said. "I myself would have preferred to see this go out to a request for proposals."

HABDI's project manager, Fort Lauderdale businessman Clayton Rudd, did not return phone calls Friday.

McCullough will soon craft a recommendation on who should win base land as the government disposes of it. He said it's a mistake to assume Dade County will automatically be given a deed to the base. A public sale, he said, remains a possibility.

McCullough called Grace's

The USAF is weighing an offer by a New York entrepreneur.

\$6 million bid a "pretty good one," considering that between \$50 million to \$200 million in infrastructure improvements will be needed at the base. If a public sale takes place, others would have a chance to bid on the base.

Grace made the cash offer in early July but was told by the conversion agency to try to work out a development partnership with the county, which has requested the base be decided to it at no cost for an airport.

His partnership proposal was shot down, with commissioners saying they would rather give the edge to HABDI, which had originally proposed developing 106 of the 900 acres available. HABDI said it hadn't known the whole base was up for grabs. Metro gave the group first refusal rights and 120 days to come up with a plan and to identify its investors.

Office of the Mayor
SAN FRANCISCO



FRANK M. JORDAN

August 2, 1994

1108

Mr. Robert Bayer, Deputy Assistant Secretary of Defense
Office of the Assistant Secretary of Defense for Economic
Security
Room 3D854
The Pentagon
Washington, D.C. 20301

Dear Mr. Bayer:

We are writing in reference to the Interim Final Rule ("Rule") regarding the Revitalization of Base Closure Communities as described in 32 CFR Parts 90 and 91. The Rule provides interpretive guidance concerning changes to the base realignment and closure process and establishes policy and procedure, assigns responsibilities and delegates authority under the President's Five-Part Plan - "A Program to Revitalize Base Closure Communities".

This letter presents both general and specific comments regarding the Rule. Each of our respective base closure communities have independently submitted specific recommendations regarding each section within Part 91.7, presented in the format provided by the Department of Defense (DoD) known as "Format for Comments on the Interim Rule".

General Comments

The Rule was intended to assist local communities impacted by base closure in their reuse efforts through rapid redevelopment and job creation. In fact, the first point made in President Clinton's July, 1993 "Five-Part Plan" is "jobs-centered property disposal that puts local economic development first". However, we do not believe that this objective will be achieved based upon the Rule as proposed by DoD.

For the following reasons, we believe the Rule is a misguided effort that would attempt to maximize the revenue accruing to the DoD at the expense of the local community. The local community would bear the costs of providing capital improvements, as well as operations and maintenance of the facilities. The Rule does not address the market realities and tremendous challenges local communities face in converting closed bases and developing the sites for job creation.

First, under the Rule conveyances to local communities for economic development purposes may only take place after the Military Department has had an opportunity to market the preferred properties for their own revenue generation. (Therefore, the remaining properties which might qualify for conveyance are likely to be difficult to market, by definition.) Furthermore, the opportunity to selectively market base property by the Military Department involved can create a "swiss-cheese" scenario where it becomes difficult for the local redevelopment authority to implement a comprehensive reuse plan. The early sales approach for "high value" property would not result in high revenues to the federal government because they do not contain any entitlements or zoning. The local community would have no ability to make sure that economic

development occurs in a timely manner in order to create local jobs. In all likelihood, the policy of promoting early sale and high value properties under these circumstances will delay redevelopment and job creation and further exacerbate the adverse impacts of the base closure on the local community. The rapid turnover of property which is so critical to reuse success, including real estate, personal property and human resources, will not be realized through the implementation of these guidelines.

Second, the timetable which has been proposed in several sections, such as personal property disposition and maintenance and repair of infrastructure, does not coincide with the conversion planning process. In particular, there are references in both of these areas to specific dates (i.e. June 1, 1994 for Personal Property decisions) as well as dates (the earliest of which) would allow the Military Department to reduce their level of maintenance and repair.

Third, the decision-making process regarding the selective marketing of property is primarily unilateral whereby a representative of either DoD or the Military Department chooses which properties to market. While the local jurisdiction is given the opportunity for input and/or are required to be notified of a decision, the opportunity for local needs to truly influence the decision-making process appears to be quite limited. Local jurisdictions need to be given greater input, possibly through Advisory Boards similar to the established Restoration Advisory Boards.

Furthermore, language in Section 91.7 (e) (4) requires the local military authorities to justify, in writing, any conveyance made for less than market value. The obvious implication is that local military authorities will be expected to receive full market value for their properties unless they can justify something less. It is uncertain what would be considered sufficient justification in such a situation. Pryor Act (§ 2903) requires the Secretary to provide an explanation for any below-market conveyance. The regulations should provide guidance for what criteria is to be considered for such conveyances.

Comments and Recommendations (Part 91.7)

a) Jobs-centered Property Disposal.

In Section (d) (3), what precisely is meant by "the completion of the new expedited McKinney Act screening process"? Is it when either "expressions of interest" are filed, full applications are submitted, or when the responses to these applications are released?

There are few criteria attached to the "Expressions of Interest", and no manner of confirming whether they have been made "in good faith" with financial backing. This situation may lead to capricious requests which have no substantial likelihood of coming to fruition. The current language implies that the only evaluation criteria to be used are the subjective evaluations of the credibility of such expressions on the part of DoD.

Recommendation: There should be a panel which evaluates these expressions of interest which should be comprised, in equal part, of representatives of the Military Department and of the local redevelopment authority. The requirement to submit a more substantial application, including a financial commitment (e.g. a good faith deposit) is also recommended.

In any case, the "ready market" definition assumes that offers to purchase at or near the estimated range of fair market value from the private sector covering all or most of the installation could be expected within 6 months of advertising the base for public sale. Several terms within this paragraph need clarification, such as what constitutes "near" fair market value, as well as who conducts the appraisal which determines what fair market value is, and when?

Furthermore, even if this definition of ready market is not met within the allocated 6 months, Section (d) (4) allows the Military Department to continue to withhold "high value property" for sale at market value.

In Section (d) (4) (i) - "The property must have a high value" - requires a clear definition of "high value". Once again, who determines this definition? This is a concern for bases like Treasure Island. There may be some people in DoD who think Treasure Island is high value property, but this fails to consider the costs and realities and implementing a redevelopment plan for the base. High value property is a counter productive concept to reuse.

All of these examples fail to include any balance between DoD needs and local needs. On the contrary, this language creates a scenario whereby the local community is waiting on the sidelines for this process to be completed, by DoD. In Mare Island's case, this process may not be completed until more than 10 months after the Final Reuse Plan has been submitted. If the federal policy to be advanced is job creation for local communities to help them adjust to the impacts of base closures, the Rule entirely misses the mark.

b) Economic Development Conveyances

According to Section (e) (1), these conveyances are only permitted after it is determined that the base, "or significant portion thereof", cannot be sold in accordance with the rapid job creation concept. Who makes this determination and using what criteria?

How would properties be defined (by individual building?) for purposes of advertising for disposal? Who would make such a determination and using what criteria?

Section (e) (1) does state that "the economic development conveyance should be used by local redevelopment authorities to gain control of large areas of the base, not just individual buildings." However, the language of the Rule appears to preclude that approach by giving the Military Department the first opportunity to dispose of individual properties for market value.

Recommendation: As indicated above, we believe that local redevelopment authorities should have control of large areas of the base because they are in the best position to insure that economic development occurs in a way that is compatible with the needs and capacities of the local community. Therefore, restrictions should be placed upon the nature and extent of the properties which may be offered by the Military Department prior to that opportunity being presented to the local community. We further recommend that language be added which would provide allowances for an economic development conveyance to be made for an entire mixed use project, for example, including residential properties.

There are conflicting provisions regarding "high/higher value property" in that, on the one hand, Section (e) (1) refers to the "income received (by the local redevelopment authorities) from some of the higher value property should help offset the maintenance and marketing costs of the less desirable parcels." However, on the other hand, in Section (d) (4) (i) "high value" is one criteria which would enable the Military Department to exempt certain properties from the 6-month "expression of interest" rule regarding economic development conveyances.

In other words, the regulations claim that these higher value properties will allow the local jurisdictions to generate revenue to help absorb the substantial costs of conversion. However, the latter section gives the Military Department a second opportunity to capture that same revenue for themselves. Furthermore, there is no indication that any revenue

captured by the Military Department would be utilized in the facilitation of the conversion process.

DoD is proposing to sell "readily marketable" property without local zoning, without provision for future infrastructure, and without the level of clean up having been ascertained or achieved. The fundamental problem with this approach is that it is impossible to determine true value of property in the absence of these considerations. Therefore, the federal government will not receive potential full market value because such uncertainties will drastically reduce the price that private enterprises are willing to offer for property. In addition, under the current language, it is likely DoD could receive expressions of interest for properties from parties unable to quickly finance job creation. This will only serve to delay the process to an even greater extent, once again resulting in a lack of job creation.

In the case of infrastructure considerations, for instance, the capacity and condition of utility systems on many bases require such a substantial level of improvement that the costs incurred may create a net negative property value. Under these circumstances, these would not truly be "readily marketable". Such factors must be taken into account within these guidelines to reflect more realistic conditions and the difficulties of redeveloping these bases.

Recommendations: The issue of opposing references to "high value properties" must be reconciled. Our recommendation is to delete the language which gives the Military Department an opportunity to extend the 6-month period for "high value properties". We suggest that this approach go one step further by inserting binding language that reflects the spirit of the comments that are mentioned above, from Section (e) (1), regarding the local community's ability to generate revenue from these same type of properties.

The process of determining market value must take into account the costs involved, regardless of ownership, to the local redevelopment authority, particularly with regard to infrastructure. The economic development conveyance price should reflect this "negative value". Language regarding these costs should be inserted into the sections regarding the determination of market value through the appraisal process.

c) Profit Sharing

Property can be conveyed at full market value, at a discount or for no consideration. However, in the latter case, any proceeds ultimately generated from subsequent sale or lease must be split with the Navy, 60/40 (of net profit), if sold or leased within 15 years. However, the definition of net profit is unclear with regard to what would be considered "allocable costs of operation of the local redevelopment authority with regard to that property."

Recommendation: Language requiring the Military Department to share a portion of their net profits from the buildings sold or leased directly by them under the "ready market" provisions should be added, similar to the 60/40 split required on those properties sold or leased by the local redevelopment authority. This would be particularly appropriate in the situation mentioned above where significant infrastructure improvements will be necessary.

An additional recommendation is to define more clearly what costs would be deemed "allocable" under the net profit definition. We recommend that both capital improvement costs as well as operation and maintenance costs and any additional remediation are included among these qualified costs.

d) Personal Property

We would reiterate the comments of the National Association of Installation Developers (NAID) that the interim rules leave this base equipment wide open for wholesale removal.

Control of the personal property process, under current language, will be placed in the hands of the base commander and the major command. The rules allow any federal agency to select equipment without any significant amount of local control or input.

The rules should emphasize DoD cooperation with the community in working out an agreeable list of equipment to be retained or removed.

The criteria listed in the Interim Final Rule are often in potential conflict with each other, such as the lack of direction in Section (h) (5) with regard to the criteria for disposition. For example, neither the word "and" nor the word "or" is used with regard to these criteria.

The linkage of personal property to real property (i.e. can only be transferred with the existing buildings) is unrealistic and inflexible.

The proposed timeline for disposition of personal property also appears to be in direct conflict with the objective in the President's July 2, 1993 policy on using the community's base reuse plan as the basis for property disposal decisions. For example, the language currently indicates that the "personal property not subject to the exemptions listed above shall remain at a closing base until (in the case of Mare Island) one week after the date on which the redevelopment plan is submitted to the applicable Military Department".

Recommendations: This language should be changed to a time frame which is related to the date of closure or transfer of property, whichever is later.

Another recommendation regards the completion of the inventory of personal property by June 1, 1994. This cannot be done properly before the Final Reuse Plan is completed for guidance regarding different types of industries to which the properties will be marketed. It is recommended that this inventory completion date be extended to April 1, 1995.

In Section (h) (4) (iii) - Twenty-four months after the dates referred to in (h) (2) should be June 1, 1996, not November 30, 1995.

Section (h) (5) - We recommend the substitution of "consent of" rather than "notice to" the local redevelopment authority.

The Interim Final Rule is silent on the subject of air emission credits. However, we believe that it is imperative that the local redevelopment authority be allowed to retain these credits for marketing purposes, and this issue should be addressed within these guidelines.

e) Minimum Level of Maintenance and Repair

In Section (i) (2) - the language "...below the minimum levels required to support the use of such facilities or equipment for nonmilitary purposes, except when the Secretary of the Military Department concerned determines that such reduction is in the National Security interest of the United States" - is very broad and open to flexible interpretation. Recommendation: This exception should be deleted.

This section also makes reference to this requirement remaining in effect until "one of the time periods in paragraph (h) (4) of this section has expired" (see the above section on "Personal Property"). This requirement could expire, under the existing language, one

week after the date on which the redevelopment plan is submitted to the Military Department. This scenario could lead to the neglect of the existing buildings and infrastructure, and thereby seriously threaten the local community's chances for a successful conversion. If this language is allowed to remain as is, it would have the potential to severely hamper our marketing efforts.

Recommendations: Section (h) (4), which references the various dates by which responsibilities relating to both personal property and levels of maintenance and repair may terminate, must be revised to take into account the time frames of both the redevelopment plan as well as the dates of closure and/or transfer of property, whichever is later.

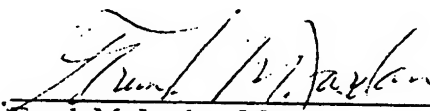
In Section (i) (4) (i) - the phrase "near term" must be more clearly defined, since it relates to the marketing strategy of the local jurisdiction.

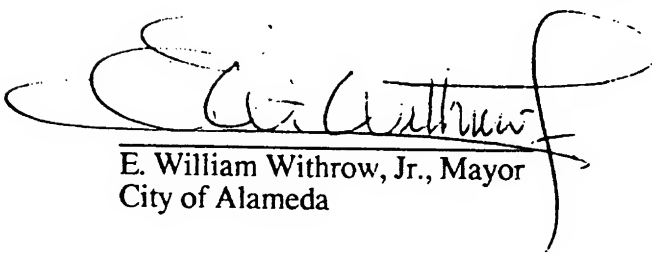
To summarize, it appears as though the Rule, as currently written, will not facilitate the implementation of president Clinton's Five-Part Program. This Rule will lead to delays in the implementation of the conversion process, thereby slowing down the creation of new jobs for the local community. Given the significant impact to our regional economy of the pending closure, there is an absolute necessity for the rapid turnover of property to the local jurisdiction.

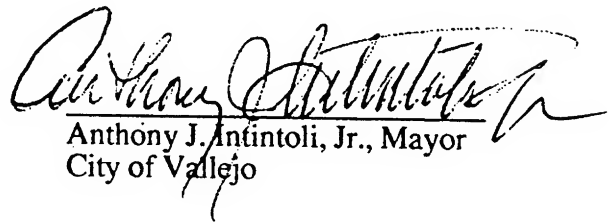
We recommend that the language of the Interim Final Rule with regard to revitalizing base closure communities be significantly revised to more accurately reflect the spirit of the President's Five-Part Program.

We hereby request that such revisions reflect the comments and recommendations made within the body of this letter and its attachments. Thank you for your consideration.

Sincerely,


Frank M. Jordan, Mayor
City and County of San Francisco


E. William Withrow, Jr., Mayor
City of Alameda


Anthony J. Intintoli, Jr., Mayor
City of Vallejo

cc: Senator Dianne Feinstein
Senator Barbara Boxer
Congressman Ron Dellums
Congresswoman Nancy Pelosi
S.F. Board of Supervisors

ADAMS COHEN SECURITIES INC.

747 Middle Neck Road
Great Neck, New York 11024
516-829-3410

625 N. Michigan Avenue, Suite 500
Chicago, Illinois 60611
312-751-5422

June 13, 1994

Mr. John Grace
Chairman
South Dade Coalition for Reconstruction, Inc.
P.O. Box 163
55 Brookville Road
Glen Head, NY 11545

Dear John:

We confirm to South Dade Coalition for Reconstruction, Inc. ("SDCR") that Adams Cohen Securities Inc. is prepared to assist SDCR in planning and executing, as manager and underwriter, a community offering of securities in connection with SDCR's development of certain real property located in Dade County. As you know, Adams Cohen is the national leader in the management of community offerings for stock conversion of mutual thrifts and savings banks.

In 1993, Adams Cohen successfully completed the community offering for Coral Gables Federal Savings and Loan in Dade County raising \$198 million. Since 1984, Adams Cohen has completed more than 60 of these offerings, raising more than \$3 billion.

Over the years, our Firm has enjoyed our client relationships with the Grace interests and believe that your skilled sponsorship of the project and our substantial experience in this field will produce a successful partnership to bring additional employment, and an improved tax base to Dade County. Just as importantly, the community offering will allow the community which has suffered from loss of the employment base to participate in its regeneration. We are very pleased to be part of your effort.

Yours sincerely,



Marshall V. Davidson
Managing Director

/vw

Adams Cohen Securities Inc.
Corporate Finance Department
14-Jun-94

ADAMS COHEN THRIFT CONVERSIONS

<u>Ticker</u>	<u>Thrift Conversion</u>	<u>Offering Date</u>	<u>Total Amount of Offering * (\$ Millions)</u>
PERFORMED SUBSCRIPTION ENHANCEMENT & ORGANIZED SYNDICATE FOR COMMUNITY OFFERING			
FIBC	Financial Bancorp, Inc. (NY)	Pending	
PFSB	Penn Federal Savings Bank (NJ)	Pending	
REDF	RedFed Bancorp, Inc. (CA)	04/06/94	\$35.0
BRBC	Bay Ridge Bancorp, Inc. (NY)	04/06/94	59.5
GTFN	Great Financial Corporation (KY)	03/31/94	163.1
RELY	Reliance Bancorp, Inc. (NY)	03/31/94	107.5
CONE	Conestoga Bancorp, Inc. (NY)	03/30/94	46.3
GNPT	G.P. Financial (NY)	01/28/94	804.8
QCBC	Quaker City Bancorp (CA)	12/30/93	31.1
MSCB	Main Street Community Bancorp (MA)	12/28/93	33.1
QCSB	Queens County Bancorp (NY)	11/23/93	109.3
ASFC	Astoria Financial Corp. (NY)	11/18/93	330.6
LFCT	Leader Financial Corp (TN)	09/30/93	107.9
FFPB	First Palm Beach Bancorp (FL)	09/29/93	52.9
HAVN	Haven Bancorp (NY)	09/23/93	49.6
ROSE	TR Financial Corp (NY)	06/29/93	102.3
JSBA	Jefferson Federal (MO)	04/08/93	43.0
SUNY	Sunrise Bancorp, Inc. (NY)	04/05/93	38.0
HFSB	Hamilton Bancorp, Inc. (NY)	04/02/93	43.5
CGFC	Coral Gables Fedcorp, Inc. (FL)	04/01/93	198.4
FNSC	Financial Security (IL)	12/29/92	17.2
FROK	FirstRock Bancorp (IL)	10/05/92	23.1
MSBB	MSB Bancorp, Inc. (NY)	09/03/92	18.4
MSBK	Mutual Savings Bank (MI)	07/17/92	12.6
ABCW	Anchor BanCorp Wisconsin (WI)	07/16/92	50.0
HNFC	Hinsdale Financial Corp. (IL)	07/07/92	21.9
FFDP	FirstFed Bancshares (IL)	07/01/92	32.2
WCBI	Westco Bancorp (IL)	06/26/92	23.0
SWBI	Southwest Bancshares (IL)	06/25/92	28.0
ALBK	ALBANK Financial Corp. (NY)	04/01/92	157.0
CBCI	Calumet Bancorp, Inc. (IL)	02/20/92	35.4
FFWM	First Fin. Corp. W. Maryland (MD)	02/11/92	13.8
LBCI	Liberty Bancorp (IL)	12/24/91	33.1
BELL	Bell Bancorp (IL)	12/23/91	156.0
CRGN	Cragin Financial Corp (IL)	06/06/91	105.0

Adams Cohen Securities Inc.
Corporate Finance Department
14-Jun-94

ADAMS COHEN THRIFT CONVERSIONS

Ticker	Thrift Conversion	Offering Date	Total Amount of Offering * (\$ Millions)
FFBS	FedFirst Bancshares, Inc. (NC)	03/27/91	22.0
NSBI	NS Bancorp (IL)	12/19/90	80.0
JSBF	JSB Financial Inc. (NY)	06/27/90	160.0
ELMF	Elm Financial Services Inc. (IL)	03/26/90	23.0
ECFC	Eastchester Financial Corp. (NY)	04/11/89	40.0
	Suburban Federal (PA)	01/15/88	3.3
SGHB	Sag Harbor (NY)	09/02/87	13.5
DEER	Deerfield Federal (IL)	04/01/87	14.4
WMBS	West Mass (MA)	11/06/86	10.4
GSBI	Granite State (NH)	08/19/86	17.5
CBNH	Community Bankshares (NH)	05/08/86	19.5
AFED	Atlantic Federal (MD)	05/08/86	7.1
HFED	Heart Federal (CA)	12/03/85	21.2
PMBK	PrimeBank (MI)	02/07/85	6.3
PSBF	Pioneer Savings Bank (FL)	02/03/85	20.4
	TOTAL		\$3,129.3

* Does not show effect of greenshoe if issued.



P.O. Box 7229
Burbank, California 91510-7229

June 10, 1994

Mr. John S. Grace, Chairman
Sterling Grace Corporation
P.O. Box 163
55 Brookville Road
Glen Head, N.Y. 11545-0163

Dear Mr. Grace:

The purpose of this letter is to confirm that Lockheed Air Terminal, Inc., ("LAT") has an interest in working with Sterling Grace Corporation in the conversion, development and management and operation of Homestead Air Force Base. Should your firm be successful in acquiring the airport, LAT can provide the following services:

1. Conversion to Civilian Use - LAT can provide advice and direction through the transition process resulting in a portion of the airport being converted to civilian use. Specifically, the transition process involves coordination with the Air Force Base Conversion Office and the filing of necessary documents and applications to effect the change in ownership, the establishment of the rights for your company to develop and manage the facility.
2. Operation and Management - LAT can provide complete airport management and operation services and perform all necessary functions required to operate a FAA certified air carrier airport plus assist in the planning, marketing and development of aviation support services and non-aviation commercial property.

We would be able to provide a qualified and experienced workforce that would be initially required with a need to increase that number as the airport develops. A fully operational commercial service airport may require approximately 100 to 120 employees for the maintenance and operation functions.

3. Development - LAT can provide design project management and other airport related development services for the expansion, alteration or addition of all airport facilities including terminals, runways and the like.

Mr. John S. Grace, Chairman
Sterling Grace Corporation

June 10, 1994
Page 2

LAT would provide these services pursuant to a mutually acceptable contract. We would be happy to send you drafts at your convenience. Other Lockheed Corporation companies such as Lockheed Support Systems, Inc. with its proven capability and experience in jet engine repair and maintenance could enhance considerably this conversion package and it advises me that it would have an interest if the market exists. We appreciate the opportunity to be of service.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Robert J. Aaronson", with a long horizontal flourish extending to the right.

Robert J. Aaronson
Executive Vice President

PGS:gg



THOMPSON CONSULTANTS INTERNATIONAL, INC. (TCI)

Background and Qualifications

Thompson Consultants International, Inc. (TCI) is an internationally recognized consulting firm specializing in airport and aviation facilities planning, development program coordination, and financial management. The firm was established in 1964 and has been under the continuous leadership of Arnold W. Thompson - its founder. In mid 1990, TCI joined Lockheed Air Terminal, Inc., operating as a semi-autonomous consultancy in that organization.

The firm offers a worldwide specialty consulting service to airport and airline managements, architects, engineers, concessionaires, government agencies and the entire aviation community. Representative clients include those who own and operate airports such as the City of Los Angeles, State of Connecticut, Indianapolis Airport Authority, Port Authority of New York and New Jersey, Civil Aviation Administration of Norway, and Brussels National Airport; airlines such as American, TWA, Pan Am, Northwest, Delta, America West, USAir, Japan Airlines and KLM; car rental companies including Hertz, Avis, National and Budget; and airport service companies and facility developers such as Concessionaire and Avia Development Group.

Headquartered in the New York metropolitan area, the firm also offers full consultant services from its offices in Florida, California, and Oslo, Norway. The staff consists of experienced architects, engineers, planners, real estate negotiators, financial analysts, and airport management specialists. The professional staff has extensive experience as senior staff members with airlines, airport management, as well as other airport consulting firms.

Arnold W. Thompson, A.I.A., the firm's founder, President and Chief Executive Officer, was formerly Chief Architect for American Airlines. He is a Registered Architect in over a dozen states and a member of The American Institute of Architects, the American Society of Civil Engineers and other professional societies. Mr. Thompson also helped found the Airport Consultants Council and served on its Board of Governors. Listed in the Who's Who of the World, and Who's Who in Finance and Industry, he is considered by his peers as the "Dean" of airport terminal architects.



TCI has both led and participated in many airport master planning teams. The firm provides recognized specialty expertise in such areas as: forecasting, programming and establishing facility requirements; terminal, parking, access, cargo and aircraft maintenance and airport operations support facility planning; land use planning; financial feasibility analysis; coordination of airport tenant and user input; concession studies; and airport development strategies.

TCI typically contracts directly with the airport operator and serves as the prime consultant with, at times, support from sub-consultants. The firm has also served as the general consultant, assisting the airport operator in forming and coordinating the efforts of the project team. These services also include program management activities to ensure implementation of the plans. TCI has also worked successfully as a member of a team under contract to a general or prime consultant.

The firm and its staff have provided professional consulting assistance to the operators of airports ranging in size from the largest international air carrier facilities to the small fields catering to the needs of general aviation. A representative listing of airports and aviation system assignments includes:

Air Carrier Airports With International Service

Ataturk International Airport, Istanbul, Turkey
Auckland International Airport, New Zealand
Baltimore/Washington International Airport, Maryland
Boston Logan International Airport, Massachusetts
Bradley International Airport, Hartford, Connecticut
Brussels National Airport, Belgium
Charlotte/Douglas International Airport, North Carolina
Chicago-O'Hare International Airport, Illinois
Dallas/Ft. Worth International Airport, Texas
Detroit Metropolitan Wayne County Airport, Michigan
Fornebu Airport, Oslo, Norway
Gardermoen Airport, Oslo, Norway
Guam International Airport, Guam
Houston Intercontinental Airport, Texas

John F. Kennedy International Airport, New York
Kota Bharu International Airport, Malaysia
London Heathrow Airport, England
Los Angeles International Airport, California
Metropolitan Nashville Airport, Tennessee
Miami International Airport, Florida
Milan International Airport, Italy
Newark International Airport, New Jersey
Philadelphia International Airport, Pennsylvania
Phoenix Sky Harbor International Airport, Arizona
Port-au-Prince International Airport, Haiti
Salt Lake City International Airport, Utah
Seattle-Tacoma International Airport, Washington



National Airports With Scheduled Service

Albany County Airport, New York
Austin Airport (New), Texas
Birmingham Airport, Alabama
Burbank/Glendale/Pasadena Airport, California
Burlington International Airport, Vermont
Champaign/Urbana Willard Airport, Illinois
Colorado Springs Municipal Airport, Colorado
Columbia Metropolitan Airport, South Carolina
Dayton International Airport, Ohio
Daytona Beach Regional Airport, Florida
Elmira/Corning Regional Airport, New York
Eppley Airfield, Omaha, Nebraska
General Mitchell International Airport, Wisconsin
Greenville-Spartanburg Airport, South Carolina
Harrisburg International Airport, Pennsylvania
Hector International Airport, Fargo, North Dakota
Indianapolis International Airport, Indiana

Jacksonville International Airport, Florida
John Wayne/Orange County Airport, California
Long Beach Airport, California
Melbourne Regional Airport, Florida
Monterey Peninsula Airport, California
Oakland International Airport, California
Ontario International Airport, California
Palm Springs Municipal Airport, California
San Jose International Airport, California
Southwest Florida Regional Airport, Ft. Myers, Florida
Springfield Regional Airport, Missouri
Standiford Field/Louisville, Kentucky
Tompkins County Airport, New York
Triad Region International Airport, North Carolina
Tweed-New Haven Airport, Connecticut
Washington National Airport, Washington, D.C.
Westchester County Airport, New York

General Aviation Airports

Chautauqua County Airport, New York
Crystal City Airport, Illinois
Dunkirk Municipal Airport, New York
Elgin Airport, Illinois
Franklin Municipal Airport, Virginia
Friedman Memorial Airport, Idaho
Genesee County Airport, New York

Las Cruces International Airport, New Mexico
Louisa County Airport, Virginia
Ogdensburg International Airport, New York
Medford-Jackson County Airport, Oregon
Provo Municipal Airport, Utah
Reno/Stead Airport, Nevada

Aviation System Planning

Capital District Region, New York
State of Colorado
State of Illinois
Indianapolis Metropolitan Region, Indiana
State of Iowa

State of Michigan
State of New York
Commonwealth of Pennsylvania
State of Utah
Commonwealth of Virginia



Large Hub Airports

Baltimore/Washington International Airport, Maryland
Boston Logan International Airport, Massachusetts
Brussels National Airport, Belgium
Charlotte/Douglas International Airport, North Carolina
Chicago-O'Hare International Airport, Illinois
Dallas/Ft. Worth International Airport, Texas
Detroit Metropolitan Wayne County Airport, Michigan
Fornebu Airport, Oslo, Norway
Gardermoen Airport, Oslo, Norway
Houston Intercontinental Airport, Texas
John F. Kennedy International Airport, New York
London Heathrow Airport, England
Los Angeles International Airport, California
Miami International Airport, Florida
Newark International Airport, New Jersey
Philadelphia International Airport, Pennsylvania
Phoenix Sky Harbor International Airport, Arizona
Salt Lake City International Airport, Utah
Washington National Airport, Washington, D.C.

Medium Hub Airports

Ataturk International Airport, Istanbul, Turkey
Auckland International Airport, New Zealand
Austin Airport (New), Texas
Bradley International Airport, Hartford, Connecticut
Burbank/Glendale/Pasadena Airport, California
Dayton International Airport, Ohio
General Mitchell International Airport, Milwaukee, Wisconsin
Guam International Airport, Guam
Indianapolis International Airport, Indiana
Jacksonville International Airport, Florida
John Wayne/Orange County Airport, California
Kota Bharu International Airport, Malaysia
Metropolitan Nashville Airport, Tennessee



Milan International Airport, Italy
Oakland International Airport, California
Ontario International Airport, California
San Jose International Airport, California
Southwest Florida Regional Airport, Ft. Myers, Florida

Small Hub Airports

Albany County Airport, New York
Birmingham Airport, Alabama
Burlington International Airport, Vermont
Colorado Springs Municipal Airport, Colorado
Columbia Metropolitan Airport, South Carolina
Daytona Beach Regional Airport, Florida
Eppley Airfield, Omaha, Nebraska
Greenville-Spartanburg Airport, South Carolina
Harrisburg International Airport, Pennsylvania
Long Beach Airport, California
Melbourne Regional Airport, Florida
Port-au-Prince International Airport, Haiti
Standiford Field, Louisville, Kentucky
Tria Region International Airport, North Carolina

The preceding listing of airport and aviation system planning experience demonstrates the breadth of consulting services provided by TCI. The unique challenges and issues associated with the range of aviation facilities have been successfully addressed by the firm.

In the area of management assistance and analysis, TCI lists among its clients the Indianapolis Airport Authority; Connecticut Department of Transportation; Westchester County, New York; Canadian Ministry of Transport; Civil Aviation Administration of Norway; Port Authority of New York and New Jersey; John Wayne/Orange County Airport, California; and Smith Barney, Inc., New York.



In the area of airport-airline financial and properties services, TCI provides assistance to airports, airlines and other aviation clients in planning and evaluating the financial structure of proposed capital projects. TCI professional staff includes experienced accountants and MBAs, many of whom served in similar roles with airlines properties departments. The properties and financial services offered include:

- Rates and Charges Evaluation
- Airline/Tenant Negotiations
- Financial Feasibility Studies
- Preparation of Leases and Agreements
- Concession Program Evaluation
- Concession "Request for Proposal" Document Preparation
- Concession Proposal Evaluation
- Operations Audits
- General Management Consulting

These services can be employed in a complete project assignment that includes the general of needs analysis, conceptual design, financial analysis and pro-forma financial statements leading to tenant negotiations, preparation of lease and use agreements, and project management. Alternatively, these properties and financial services can be provided separately to augment a project team that includes other professional consulting organizations.

TCI, through its division, Potomac Associates, offers a specialized consulting service in the area of real-time (up-to-the-minute) aviation weather data acquisition and dissemination networks. Clients typically include state departments of transportation or state aviation agencies. These planning projects define a state/local role in expanding the coverage of surface weather phenomena to complement Federal initiatives which typically are insufficiently funded to meet total user requirements. The planning concepts build upon state-of-the-art technology which can be utilized to effectively and efficiently serve a wide range of user interests in weather information.



June 9, 1994

Mr. John S. Grace
President
South Dade Coalition for Reconstruction, Inc.
c/o Sterling Grace Corporation
P.O. Box 163
55 Brookville Road
Glen Head, NY 11545

Dear Mr. Grace:

We enjoyed meeting with you last month and would like to confirm our interest in establishing passenger service to a terminal with related facilities built by your company at Homestead Air Force Base.

Although service would start out with just a few daily flights, we believe that, if successful, KIWI's operation might grow to 20 daily flights to seven destinations within one year bringing the yearly passenger total to 1,300,000. We estimate that initially 195 jobs would be created and that with growth, 360 plus jobs might be created by our operation at years end.

Please review the attached document listing our currently estimated needs for facilities and amenities for introduction of passenger service. It is our understanding that you would offer an extremely attractive package to encourage KIWI to establish preliminary service.

We look forward to establishing a detailed agreement at such time as you are in a position to offer this package.

Sincerely,

A handwritten signature in cursive script that reads "David R. Bell".

David R. Bell
Vice President and Secretary

DRB:tmhjr

HOMESTEAD PRIVATIZATION PROPOSAL FACILITIES AND AMENITIES FOR THE INTRODUCTION OF PASSENGER SERVICE

Flight Service:

1. Anticipated passenger traffic
2. Number of flights per day/scheduling
3. Type of passenger aircraft to utilize Homestead

KIWI ESTIMATES:

1. Initial - 720 passengers/day; 21,600/mo; 260,000/yr
2. Initial - Four (4) Round Trips A Day
 Newark to HST - Two (2) Round Trips Daily
 ARR 1100 LV 1200; ARR 1700 LV 1800
 Midway to HST - Two (2) Round Trips Daily
 ARR 1200 LV 1300; ARR 1800 LV 1900
3. B-727-200; 150 Passenger Configuration

Passenger Terminal Features:

4. Overall dimensions
5. Number of check-in/baggage counters, dimensions of area
6. X-ray/security positions
7. Number of gates, size and capacity of gate waiting area
8. Baggage handling equipment
9. Estimated New jobs created/salary range

KIWI ESTIMATES:

4. Initial - 4,000 square feet
5. 3 - Counter Units with six agent positions
 (A). 27 foot long counter area
 (B). Back Offices - 900 sq. ft.
6. 2 X-Ray Units & 2 Magnetometers
7. 2 Gates/2 Jetways with 300 seating capacity
 (A). Gate Area - minimum 50'X60' each gate
 (B). Operations Office/Area - 200 sq. ft.
 (C). Communications - Radio, Computer, Printer(FAX) & Phone
8. Baggage Handling Requirements - Initial
 (A). Counter Conveyor - Belt, 30'X3'
 (B). Outbound Bag Make-Up Room - 60'X50'
 (C). Inbound Bag Room/Conveyor -
 (1). 60'X50' Room
 (2). Conveyor Carousel - 150 foot
 (D). Side-Walk Conveyor to Bag Room - 450 foot
9. (A). Security - 14 jobs at \$4-\$6 per hour
 (B). KIWI Passenger Service - 34 jobs at \$20,000-\$30,000/yr
 (C). Skycaps - 9 jobs at \$2.75-\$4 per hour
 (D). Police - 6 jobs at County Scale

JUN-06-24 MON 05:24 PM KIWI EXECUTIVE OFFICE

Passenger Terminal Amenities/Concessions:

10. Rest room facilities: minimum capacity required
11. Restaurant(s)
 - seating capacity
 - food/bar service
12. Bookstore/newsstand
13. Other concessions or airport hotel
14. Estimated new jobs created/salary range

KIWI ESTIMATES:

10. County Requirements/Invalid Access for passenger load
11. Initial - 20-30 seating capacity w/food and bar service
12. Initial - 150 sq. ft.
13. Terminal Cleaning personnel/facilities
 - (A). Fixed Base Operator - for Corporate Aircraft
 - (B). Associated Equipment and personnel
 - (C). Initial Hotel not required - Several within 5 to 10 minutes
14. (A). 20-25 jobs at \$16,000-\$30,000/yr
(B). FBO 12-16 jobs at \$16,000-\$40,000/yr

Transportation Services:

15. Car rental service
 - number of rental cars needed
 - cleaning facility and other equipment required on-site?
16. Taxi/limousine service
17. Bus service
 - municipal bus service
 - hotel vans/buses
 - cruise lines vans/buses

KIWI ESTIMATES:

15. 10 cars per flight; Initial - 40 cars/day
16. Rental Car facility - 4,000 sq. ft., water and electrical
17. Parking/Handling Area for at least
 - 4 Municipal buses
 - 4 Hotel Vans
 - 2 Cruise Busses
- 17(A). 20 jobs at \$16,000-\$30,000/yr

~~JUN-06-94 MON 05:54 PM KIWI EXECUTIVE OFFICE~~

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Aircraft Line Maintenance:

18.

Facilities required -

- Capacity -
- Dimensions of building(s) required -
- Specialized equipment -

19. Services provided - Turn & Daily Maintenance Work

20. Estimated new jobs created/salary range -

KIWI ESTIMATES:

18. KIWI

19. Maintenance Shop; 400 Sq. Ft.; rear of terminal
Equipment - 2 A/C Tow Tractors, Lift Truck, Engine Start Cart,
Electric Cart(Power Unit)

20. 7 jobs at \$40,000

Aircraft Ground Services:

21. Who will operate -

22. Fuel -

23. Food preparation -

24. Baggage handling equipment -

25. Sanitation -

26. Other services -

27. Estimated new jobs created/salary range -

KIWI ESTIMATES:

21. KIWI

22. Vendor Supplied and Operated

23. Vendor Operated

24. External Power Unit, 12 Baggage Carts, 3 Tugs (Tractors),
4 Belt Loaders,

25. Lavatory Truck and Tricholater, A/C Water Drinking Truck

26. Waste Disposal by Vendor

Aircraft Cleaning - Turn & Overnight by KIWI

27. KIWI - 12 jobs at \$16,000-\$24,000/yr

Vendors - 10 jobs at \$16,000-\$30,000/yr

JUN-06-94 MON 05:55 PM KIWI EXECUTIVE OFFICE

Cargo Services and Facilities:

- 28. Identity of large potential users
- 29. Capacity
- 30. Customs handling
- 31. Refrigeration facilities required
- 32. Estimated new jobs created/salary range

KIWI ESTIMATES:

- 28. KIWI and other potential wholesalers
- 29. 2,000 sq/ ft. with lift truck
- 30. Bonded with cage storage, 2,000 sq. ft.
- 31. Freezer for meal passenger storage - minimum 220 sq. ft.
- 32. 10-15 jobs at \$16,000-\$30,000/yr

Fueling Services and Storage Facilities:**KIWI ESTIMATES:**

- 34. Unknown EPA Issues and Concerns
- 35. Initial Storage - 1,000,000 Gallons per Month
- 36. 10-15 jobs at \$16,000-\$30,000/yr

Customer/Employee Parking Facility/Lots:**KIWI ESTIMATES:**

- 37. 500-1,000 parking spaces
- 38. Buses/Vans to/from lots
- 39. 10-12 jobs at \$16,000-\$20,000/yr

Future Major Maintenance Base Facility: "C" Services**KIWI ESTIMATES:**

- 40. Hangar Capacity - For 4 B-727 Aircraft - 80,000 Sq. Ft.
Electrical Power, 400 cycles; Pneumatic Power, High Volume-
Low Pressure....Engine Start Air
Includes - Interior Shop, Metal Shop, Avionics Shop
- 41. Estimated new jobs created/salary range - 70 jobs at \$30,000-\$42,000

Homestead Privatization Proposal:

KIWI ESTIMATES: If Successful, KIWI's Operation could easily grow to 20 Daily Flights to seven destinations within one year bringing the yearly passenger total to 1,300,000.

Jobs Created by Plan

KIWI ESTIMATES: Initial -	195 jobs created
Within Six Months -	300 jobs created
Within One Year -	350+ jobs created



GRACE PROPERTY MANAGEMENT, INC.

55 BROOKVILLE ROAD
P. O. Box 163
GLEN HEAD, NEW YORK 11545

Writer's Direct Dial Number
Davis P. Stowell
Vice President
(516) 686-2201

Tel # (516) 686-2200
Fax # (516) 625-1685
Fax # (516) 625-1686

June 10, 1994

Mr. John S. Grace
Chairman
South Dade Coalition
for Reconstruction, Inc.
c/o Sterling Grace Corporation
P.O. Box 163
55 Brookville Road
Glen Head, New York 11545

Dear John:

We have reviewed three redevelopment projects for facilities at Homestead Air Force Base and our assessment is as follows:

1. Commercial warehouse operations in Buildings 618 and 624

- o It is feasible to conduct commercial warehouse operations out of Buildings 618 and 624.
- o The number of jobs associated with such operations, including related trucking and service jobs, is estimated at 50 per building, or 100 in total.
- o Annual wages/salaries associated with these jobs would likely range from \$15,000 to \$35,000, with the average at approximately \$20,000.

2. A 500-unit wholesale/retail farmers market

- o A large wholesale-only farmers market presently exists near the Homestead site but the number of farms and the demographics of the surrounding area suggest that a farmers market catering to retail, as well as wholesale, customers, is feasible.
- o The number of jobs associated with a 500-unit farmers market would be approximately two per unit on average, or an aggregate of approximately 1,000 jobs.
- o Annual wages/salaries associated with the market would be highly dependant upon sales of produce but may be reasonably estimated to be approximately \$10,000 to \$30,000, with an average of approximately \$15,000.

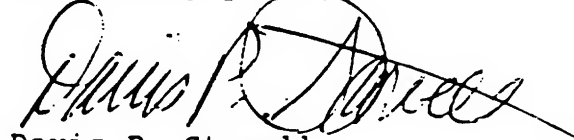
Mr. John S. Grace
Chairman
South Dade Coalition
for Reconstruction, Inc.
June 10, 1994
Page Two

3. A 150+-room hotel/convention center

- o Hotel and motel facilities already exist within minutes of the Homestead site to accommodate traffic during the start-up phase. Following the redevelopment of the Base, however, a hotel/convention center, situated on or near the golf course, with 150+ rooms, between 7,500 and 10,000 square feet of meeting space and function areas, health club facilities, and a small shopping arcade near the lobby area, is considered feasible.
- o The number of jobs associated with such a hotel/convention center depends upon the quality of service desired but is estimated at between 60 and 110.
- o Annual wages/salaries of the jobs associated with the hotel/convention center may be reasonably estimated to be between approximately \$12,000 to \$40,000, with an average annual wage/salary, including tips in the case of waiters and waitresses, of approximately \$20,000.

Based upon the knowledge and experience of Grace Property Management, Inc., the total number of jobs associated with the three redevelopment projects is approximately 1,200.

Very truly yours,



Davis P. Stowell

Manhattan Area Post **CITIPOST** *Inc.*

Att: Mr. John S. Grace
Chairman
South Dade Coalition for Reconstruction, Inc.
P.O. Box 163
55 Brookville Road
Glen Head, N.Y. 11545

June 9, 1994

Dear John,

I enjoyed meeting you last month to discuss the possibility of "Citipost" starting up an air courier service to the Miami Area. "Citipost" currently provides courier service to New York, L.A. and Boston and is looking to expand to new cities.

It is my understanding that you are in discussions with the Air Force to acquire and operate the Homestead Air Force Base. In the event you are successful, "Citipost" would be extremely interested in negotiating a lease whereby you could make available space for a facility to be operated by us. We would require approximately 15,000 sq. ft. of open space with loading bay facilities. "Citipost" estimates it would employ 20 people, increasing to 30 or 40, with salaries ranging from \$16,000 to \$40,000.

Please contact me as soon as you are in possession of the property so we may discuss a detailed agreement.

Sincerely,



Hugh FitzWilliam-Lay
C.F.O



Suffolk County Airport • Westhampton Beach • New York 11978 • (516) 288-5410/5411

June 9, 1994

Mr. John S. Grace
Chairman
South Dade Coalition for Reconstruction, Inc.
P.O. Box 163
55 Brookville Road
Glen Head, N.Y. 11545

Dear John:

I enjoyed meeting with you yesterday to discuss the conversion of Homestead Air Force Base and the related development projects which you are creating on the base.

As you know, Malloy Air East currently operates general aviation facilities at Suffolk County Airport which also was once a B-52 air base. Because of this experience, Malloy Air East is also familiar with the base conversion process.

John, Malloy Air East would be very interested in negotiating with you to operate the general aviation facilities at Homestead in addition to an aviation school. Due to its extensive runway and ramp facilities Homestead would be an ideal site for corporate aircraft, maintenance facilities, ramp and hangar storage. As you may not be aware, we also run the terminal for the Suffolk County Airport as well as most of the FBO services. At the commencement of start-up operations, we estimate that we would employ 25 to 40 people at salaries ranging from \$18,000 to \$75,000. If this operation is as successful as we believe it could be we could double this after two years of successful operation.

Please contact me at such time as you are able to make a real commitment for hangar and office space at the easterly end of the ramp area.

Sincerely,

Patrick E. Malloy, III
President
pem/jm

JOHN S. GRACE

John S. Grace is Chairman of Sterling Grace Corporation, which is the General Partner of Sterling Grace Capital Management, L.P., one of the Graces' investment partnerships. He is also General Partner of The Anglo American Security Fund, L.P., Co-Chairman of Associated Asset Management, Inc., the General Partner of Drake Associates, L.P. and Diversified Long-Term Growth Fund, L.P., all of which are Grace-related investment entities. He is also President of Grace Property Management, Inc.

He joined Sterling Grace & Co., Inc., in 1980. From 1981 to 1983 he structured the acquisition and financing of Grace Geothermal Corporation. He became a Vice President of Grace Geothermal corporation in 1984 and served as President from 1985 until its dissolution in 1986. He invested in and became a Director of Richmond Hill Savings Bank until its merger with North Side Savings Bank. He is presently a Director of Andersen Group, Inc.

He is a former Governor of The Foundation for Advanced Information and Research (FAIR) of Tokyo, Japan, whose membership includes senior executives of many of Japan's leading manufacturing, trading and finance companies. He is a member of the Board of Trustees of the Ford Theatre, Washington, D.C. and is a Director of the Cold Spring Harbor Laboratory Association, a genetics research institute. In 1994, Mr. Grace was elected Trustee of the Village of Cove Neck.

Mr. Grace received a B.S. in Finance from Georgetown University and an A.A. from Franklin College in Switzerland.

RICHARD C. PECK
518-383-3297

18 Timberwick Drive
Clifton Park, NY 12065

EDUCATION

1966 FAA Pilot's Certificate
1967 Graduated from Patchogue High School, Patchogue, NY
1987 Received four year degree from State University of New
York in Aviation Technology

WORK EXPERIENCE

1970-1972 FLIGHT SAFETY INTERNATIONAL
Certified Flight and Ground Instructor for
FAR Part 141 Flight School

1972-1974 DIC UNDERHILL
Operating Engineer in high rise construction
in New York City

1974-PRESENT FEDERAL AVIATION ADMINISTRATION

1974-1978 Air Traffic Controller

1978-1981 Aviation Safety Inspector at Teterboro
Airport, New Jersey

1981 Staff Specialist in Compliance and Enforcement at
John F. Kennedy International Airport, New York

1990 Operations Unit Supervisor at Albany Flight
Standards District Office, Albany, NY

MILITARY

1967-1970 United States Army

1968-1969 Served in Viet Nam, received Army Commendation
Medal and Bronze Star

PERSONAL

Married Susan Cleary, March 7, 1972. One child,
Mary Catherine, born April 17, 1982

Assistant Soccer Coach - Capital District Youth
Soccer League

Active member of several model railroading clubs
specializing in LGB layouts

RICHARD C. PECK
518-383-3297

18 Timberwick Drive
Clifton Park, NY 12065

PROFESSIONAL CREDENTIALS

Total Flight Time: More than 17,500 hours
More than 7,000 hours of Flight Instructor
experience

Airman Certificates Held: AIRLINE TRANSPORT PILOT
Single and Multi-Engine
Land and Sea
Rotocraft/Helicopter

Type Ratings: Israeli Aircraft Jet
DH-7
DC-9
Cessna Citation Jet
Beechcraft 1900 Airliner
Super King Air 300

FLIGHT INSTRUCTOR - Gold Seal
Airplane Single and Multi-Engine
Instrument Airplane

GROUND INSTRUCTOR
Advanced
Instrument

Control Tower Operator: Long Island Tower, Islip, NY
New York City Radar Control Area

Special Experience: Chief Pilot in charge of all FAA Inspector
training in Agency Aircraft for the Eastern
Region

Responsible for recommending flight status
for Inspectors including in-agency grounding
where necessary

Twenty-two years as a Flight Instructor,
seventeen years experience as an FAA Pilot
Examiner with broad experience in general
aviation and air carrier aircraft

RICHARD C. PECK
518-383-3297

18 Timberwick Drive
Clifton Park, NY 12065

Aircraft Operations Experience: Observe and evaluate airport operations to prevent accidents, incidents, and potential violations, education of the flying public, promotion of good working relations between FAA and pilots at a variety of evaluation sites such as certificated, publicly owned airports and heliports, non-certificated, publicly owned airports, heliports, and seaplane bases, joint military/civilian airports, and private airports open to the public in restricted and non-restricted areas including ramps, baggage handling areas, private airport and security parking, construction areas, and other restricted areas, maintain awareness of potential security breaches and reporting of security problems to the Civil Aviation Security Field Office (CASFO)

Coordinate with Air worthiness, Air Traffic, airport management, airport security or CASFO; conduct observations regarding pilot adherence to ATC clearances and instructions; observe pilot adherence to approach and departure procedures such as local noise abatement rules, airport procedures, and recommended departure paths for traffic separation; observe instances of unsafe taxiing practices such as excessive speed, taxiing contrary to ATC instruction, failure to yield right of way, taxiing too close to moving vehicles, parked aircraft, etc.; observe pilot proficiency during landings; observe marginal or unsafe operations such as improper altitude in traffic patterns, following other aircraft too closely, cutting in front of other aircraft; observe adverse weather procedures such as operation in special VFR conditions; observe whether pilots read back clearances properly and comply with clearances; observe movements of ground vehicles in aircraft operating areas to determine whether airport security confines vehicle movements to appropriate areas; determine the level of airport security by checking that gates are locked, fences are in good condition, and access to loading areas is restricted to authorized individuals; determine that suspicious looking people, packages and activities are handled properly

RICHARD C. PECK
518-383-3297

18 Timberwick Drive
Clifton Park, NY 12065

Airport Data Systems Experience: Approval or acceptance of an airport operator's system of obtaining aeronautical data and determination that the system is in accordance with FAA standards; analysis of airport obstacle data sources including **obstruction charts (OC's)** which must be augmented with other information sources since OC's are primarily produced for airports with precision instrument approaches, terrain surrounding the airport having a significant impact on allowable takeoff weight may not be shown on an OC since the coverage of OC's is limited to 10,000 feet from a nonprecision runway and 52,000 feet from a precision runway, and chart revision is usually conducted every three years, although for many airports, the most recent chart revisions are considerably older; **obstruction data sheets (OD's)** are digital derivatives of the OC with contain runway and obstruction data in tabular format; **terrain charts or quad charts.** Quad charts are produced to depict all terrain surrounding an airport, but man-made obstruction data is not depicted. Terrain charts are primarily used for mountainous airports where the obstacles consist of terrain rather than man-made objects; **local layout plans**, which are prepared as a condition of federal funding to airports, exist for many airports that do not have an obstruction chart. Local layout plans contain depictions and terrain that penetrate Part 77 planes. Layout plans are typically provided by airport owners.

FAA Form 5010-1, "Airport Master Record" is prepared for all public-use airports and contains comprehensive data on airports, including obstacles. The master record must be updated annually for airports where scheduled Part 121 or Part 135 operations are conducted. Master records for the entire US are maintained by the National Flight Data Center, an agency of the FAA. Copies of the form are accessible to FAA personnel. The form is kept in regional airport division offices for each airport in the region.

Digital Airport Database consists of information from FAA Form 5010-1 for all US airports.

RICHARD C. PECK
518-383-3297

18 Timberwick Drive
Clifton Park, NY 12065

Digital Obstruction Database contains all known, man-made objects that penetrate a Part 77 obstruction plane. The database does not contain all obstacles that are significant in the takeoff case.

National Flight Data Digest is published daily, and the Thursday edition contains changes to obstruction data.

Foreign Government Publications provide runway and obstacle information for most but not all foreign airports, and must be obtained through the appropriate government.

ICAO Aeronautical Information Publications are available by subscription.

Approval of Data Acquisition Systems depends on having the following characteristics: it must include all airports and runways on which operations are conducted; the original data should be based on OC's or the ICAO equivalent; data must be updated by active surveillance; if OC's are not available other systems based on other data sources may be approved; operators must show that data is complete and accurate; data must be verified by an official source, and documentation must be maintained. Operators must demonstrate that continuous surveillance on airports and runways served is maintained. The operator must have an active and timely revision process with sufficient personnel and physical resources to collect, process, and revise data. Operators may contract for such data services.

Technical Administrative Experience: Conduct investigations of accidents, conduct incident investigations, conduct complaint investigations, conduct violation investigations, conduct NMAC investigations, process applications for FAA authorizations, process applications for waivers of FAR's, develop aircraft training requirements on Flight Standardization Board, develop MMEL-flight operations evaluation board, conduct accident prevention presentations, provide technical assistance, provide technical assistance to legal

RICHARD C. PECK
518-383-3297

18 Timberwick Drive
Clifton Park, NY 12065

counsel, respond to legal request for deposition or appearance in court trials, process aircraft lease agreement compliance under FAR 91.54, evaluate FAR 137 Congested Area Operations Plan, inspect FAR 133 operations, evaluate FAR 133 Congested Area Operations Plans

Certification Experience: Conduct ROTC/other approved school phase checks, evaluate deviation applications, conduct Section 609 re-examinations, evaluate airport analysis data, evaluate technical documents, issue special purpose certificate - foreign pilot operation of US leased aircraft, evaluate manuals, conduct student pilot certification, conduct private pilot certification, conduct commercial pilot certification, conduct ATP certification, proficiency checks, additional type ratings, conduct initial/reinstatement CFI certification/additional ratings, conduct CFI renewals, issue ground instructor certificates, issue authorization for airman written test, conduct Special Medical Practical Test, Conduct CAT II or III check, issue Mil. Comp. Certificate, issue airman certificate on basis of foreign license/special purpose, issue statement of aerobatic competence, conduct written examination required for airman certification, evaluate flight simulator/training development, conduct aircraft and route proving runs, evaluate emergency evacuation and ditching procedures, evaluate power back procedures, evaluate aircraft lease, administer knowledge and skill test to agricultural pilots

Surveillance Experience: Inspect executive/corporate operators, inspect industrial operators, conduct FAR 91 ramp inspections, monitor air race activities, monitor air show activities, conduct 121/135 base inspections, conduct FAR 137 operator ramp inspections, conduct 137 base inspections, inspect FAR 63, 65, and 141 Airman Training programs, conduct FAR 133 ramp inspections, conduct WTE inspections, inspect check airmen, conduct PPE inspections, conduct DPE inspections, inspect FAR 121/135 training programs, evaluate dispatch/flight following/flight locating systems, inspect crew member and dispatch records, conduct cockpit enroute inspections, conduct 121/125/135 ramp inspections,

RICHARD C. PECK
518-383-3297

18 Timberwick Drive
Clifton Park, NY 12065

evaluate aircraft operations from airport and ATC facilities, conduct station facility inspections; conduct cabin enroute inspections, inspect trip records, conduct CFI inspections, inspect FAR 137 operations, inspect airports (foreign airports and non-certified airports)

Aviation Management Experience: Served as Chief Charter Pilot for Mid Island Air Service, Ronkonkoma, NY; supervised 5 other pilots to maintain 24-hour flight crew; scheduled crew rotations, maintained flight manual for Part 135 certificate; enforced compliance with airworthiness directives for fleet of single and multi-engine general aviation aircraft; revamped operation of charter department to increase profitability. Experience as Acting Manager of the Operations Branch of the Federal Aviation Administration, John F. Kennedy International Airport, Jamaica, NY. Developed and directed Training Seminars for New Attorneys in the Regional Counsel's office of the FAA at John F. Kennedy International Airport, Jamaica, NY to provide an understanding of technical issues to new attorneys, to foster a team environment and improve productivity.

Other Management Experience: Operating Engineer for high rise construction - supervised work activities of more than 100 skilled tradesmen in Union environment; responsibilities included scheduling crews whose work was often restricted by weather, other work crews and New York City Regulations; planned, directed and evaluated work activities to complete jobs safely and within budget.

Founder, President and Chairman of the Board of a publicly held company providing limousine service to some of the major corporations in New York City. Developing the company required the ability to determine financing needs, working with a variety of agencies in New York City and State government, and choosing a management team to run the company on a day to day basis.

Former Principal of a development firm that constructed more than thirty homes in eastern Suffolk County, New York. Organized investors into a group providing homes to the mid-price market; worked with factory

RICHARD C. PECK
518-383-3297

18 Timberwick Drive
Clifton Park, NY 12065

management to deliver homes on a schedule coordinated with Town and County departments; developed schedules for a variety of skilled trades, evaluated work to determine that workmanship requirements were satisfied.

Additional Specialized Experience: Seminars, FAA coursework and outside training in Compliance and Enforcement, Human Relations Management, Preparation as a Technical Witness, and specialized training in mentoring



Helen
BCU

HOMEPORT REUSE PLANNING COMMITTEE

PHONE (205) 441-7115
FAX (205) 441-7119

P.O. BOX 1588
MOBILE, AL 36633

August 3, 1994

1109

The Honorable Joshua Gotbaum
Assistant Secretary for Economic Security
Department of Defense
Room 3D814, The Pentagon
Washington, D.C. 20301

Re: Department of Defense
32 CFR Parts 90 and 91
RINs 0790-AF61 and 0790-AF62

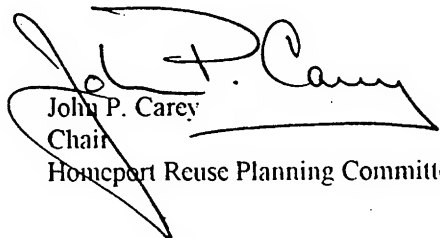
Dear Mr. Gotbaum:

The Homeport Reuse Planning Committee, the Local Redevelopment Authority representing the State of Alabama, the City and County of Mobile, utility, business and residential interests, respectfully submits the enclosed comments to the Department of Defense interim rulemaking on Revitalizing Base Closure Communities and Community Assistance.

The Homeport Reuse Planning Committee stands ready to assist the Office of the Assistant Secretary for Economic Security in defining Department of Defense guidelines into a win/win program for base closures.

With best regards, I am,

Sincerely,


John P. Carey
Chair
Homeport Reuse Planning Committee

Enclosure

**Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: '93 BRAC/Alabama/County of Mobile/Naval Station Mobile/Homeport Reuse
Planning Committee
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Page: 16127

Column: 3

Paragraph: 6 (Section 91.3(h) Definitions)

Recommended Changes: "An area outside a 'Metropolitan Statistical Area' which, after analysis based on marketing trends, economics, job growth, and population growth, are deemed to not have comparable real estate or commercial markets to those areas meeting 'Metropolitan Statistical Areas' criteria."

Why: As the current interim rule is written, the definition of "rural areas" is narrow and exclusive of communities that demographically meet the criteria of "Metropolitan Statistical Areas", yet, because of location and/or resource base, these same communities do not retain strong/competitive real estate markets or commerce. Naval Station Mobile, located in Mobile, Alabama, is an example of a facility located in a coastal community supported by port and tourism activities. Naval Station Mobile was constructed in the southern reaches of the county where transportation infrastructures are not adequately developed to support economic growth. Naval Station Mobile possesses a "rural nature" with little or no economic recovery opportunities. Mobile's competitiveness, as a port, is also diminished by its proximity to New Orleans, Tampa, Pensacola, Jacksonville, and Houston. Further, recreation and tourism is overshadowed by the abundance of Gulf Coast-, amusement- and entertainment- related industries of Florida and Mississippi.

Name: John P. Carey, Chair
Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
Phone: (205) 441-7115

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Page: 16128
Column: 16128 Column 1
Paragraph: (Section 91.5 (c) Responsibilities - new section)

Recommended Changes: The Military Departments must secure the approval of the Assistant Secretary of Defense for Economic Security for Military Department interpretations of the interim rule which conflict with the intent of the President's Five Part Plan and conflict with the decisions or jurisdiction of the Base Closure and Realignment Commission. The Military Departments must also secure approval of the Assistant Secretary of Defense for Economic Security and the DoD General Counsel for any Military Department legal opinions which question or conflict with the decisions or jurisdiction of the Base Closure and Realignment Commission.

Why: Consistently, the local redevelopment authority administering the closing and transition of Naval Station Mobile has had to fight, every step of the way, mid-level and non jurisdictional command interpretations of President Clinton's directive, the 1993 DoD Authorization public law (Pryor bill), or the directives by DoD as issued in the April 6, 1994 interim rule. The LRA has not only experienced Military Department personnel administering their own brand of policy, but has also experienced total disregard for the spirit of the law. The common answer given to the LRA, when it inquires about discrepancies in interpretation and implementation of the law, is "until I'm ordered, I will not,...BRAC does not apply to my command,...we're the Navy, we're different, etc." The frustration by the LRA in its dealing with the various levels of personnel within the Department of Navy has left us with no other alternative than to seek Congressional relief. The aforementioned proposed language should spell out clearly to each Military Department that BRAC is a joint uniform/civilian effort directed by the Commander in Chief of the United States of America.

Name: John P. Carey, Chair
Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
Phone: (205) 441-7115

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Page: 16128
Column: 16128 Column 3
Paragraph: (Section 91.7 (a)(7) Procedures)

Recommended Changes: Within the 6 month screening period in paragraph (a)(4) of this section, the Military Departments shall consult with the local redevelopment authority and make appropriate final determinations whether a Federal Agency has identified a use for, or shall accept transfer of, any portion of the property. If no Federal Agency requests the property, the property shall, no later than 30 days after the close of the Federal Agency screening period, be declared surplus.

Why: The change in this provision insures expeditious treatment of each property and sets a deadline toward which Military Departments must finalize its actions.

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Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
Phone: (205) 441-7115

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From: '93 BRAC/Alabama/County of Mobile/Naval Station Mobile/Homeport Reuse
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Page: 16130
Column: 16130 Column 3
Paragraph: (Section 91.7(d)(2) Jobs-centered Property Disposal)

Recommended Changes: There are no recommended changes to the following language...:"Such appraisals or estimates should address a range of likely market values taking into account: feasible uses for the property; the uncertainties in property development; and, current market conditions, etc....The appraisals should not be based on the highest and best use, but the most likely range of uses consistent with local interests...." However, the Military Departments need to uniformly apply the directive outlined in the interim rule, Section 91.7(d)(2).

Why: Although the appraisal for Naval Station Mobile¹ was presented to SOUTHDIV Naval Facilities Command the first week of June, 1994, the Local Redevelopment Authority has not received that appraisal. It is the understanding and perception of the LRA that the Navy directed the appraiser to recalculate value of the real property based on the Navy's own interpretation of fair market value and a reverter agreement which exists between the Navy and the State of Alabama. It also appears, at this writing, that the property may have been appraised "piecemeal" based on inquiries by the real estate division within SOUTHDIV NAVFAC and OPNAV 44. Appraising the property in this manner distorts the value of the property as a whole and probably does not take into account the value of the submerged lands. This approach hardly meets the spirit of interim rule in that Navy personnel within the Pentagon and in Charleston have deemed themselves experts on the commercial and industrial property values in Mobile, Alabama.

Name: John P. Carey, Chair
Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
Phone: (205) 441-7115

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¹ The appraisal process executed by the Navy fit the criteria used in determining appraised value as defined in "Jobs-centered property disposal" rather than that of "economic development", because the LRA has not completed its reuse plan and the Navy has already conducted an appraisal.

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Page: 16130

Column: 16130 Column 2

Paragraph: (Section 91.7(c)(2) Real Property Appraisals)

Recommended Changes: There should be an effort to define, more clearly, the criteria on how "fair market value" appraisals are to be conducted on the property as a whole. If the fair market value appraisals are conducted on a "readily marketable" basis, then guidelines should take into consideration, as-is, where-is, zoning laws, existing infrastructure and expressed interest of use. If the fair market value is based on economic development and a reuse plan, the appraisals should be conducted after the Local Redevelopment Authority submits a reuse plan, as well as reflect as-is and where-is conditions, location, zoning laws, existing infrastructure, and any expressed interest in the property.

Why: The interim rule has two different descriptions of fair market value. Neither definition takes into consideration the differing circumstances affecting the property in the event property is conveyed for economic development purposes or is considered readily marketable. Further, if appraisal is based on reuse for economic and rapid jobs development, then the appraisal should take place after consultation with the Local Redevelopment Authority and after a reuse plan is proposed. In addition, the interim rule does not clearly define the property to be appraised. As currently written, appraisal can emphasize land, buildings, infrastructure or any unique feature of the property resulting in an inflated value based on any one asset. The interim rule should define and appraise the property as a whole.

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Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
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Page: 16130

Column: 16130 Column 3

Paragraph: (Section 91.7 (d)(3)(i) Jobs-centered property disposal)

Recommended Changes: Advertisement for expressions of interest shall be open for 3 months.

Why: Advertisement for expression of interest should afford ample time for private interests to prepare proposals of use. However, six months is too lengthy and burdensome. Department of Defense and the Local Redevelopment Authority require expeditious property disposal based on jobs and economic development. Any private interest expressing interest in the land can within three (3) months provide to the Military Departments a detailed plan of action for the site in question.

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Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
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Page: 16130-16131

Column: 16130 Column 3; 16131 Column 1

Paragraph: (Section 91.7(d)(3)(ii) Jobs-centered property disposal)

Recommended Changes: The Military Departments shall analyze each expression of interest and shall make a final determination, after consultation with the Local Redevelopment Authority, within 30 days if it is made in good faith and represents a reasonable development proposal.....The property proposed for sale shall promptly be publicly identified, and the redevelopment authority shall be consulted. If in the event, the Military Departments opts for private sale, the redevelopment authority may request reconsideration of this decision under paragraph (d)(5) of this section....

Why: The subparagraph, as written, would allow delays to transition to be utilized by private interests whose plans may conflict with the community interests. Political or financial incentives, that may be adverse to community interests and goals, may well intercede in the orderly transition of the property. The above change would offer no appeal process to private interests who cannot or will not present a clear and concise action plan for the property in question. In addition, the LRA will be concurrently working to develop an economic development plan with the aid of state and federal dollars (Office of Economic Adjustment community assistance programs). It is a waste of taxpayer dollars to exclude the LRA from the planning, or at the very least, the decision making process.

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Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
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Page: 16131

Column: 16131 Column 1

Paragraph: (Section 91.7 (d)(4) Jobs-centered property disposal)

Recommended Changes: A few high value installations for which a ready market apparently exists may, nevertheless, not have generated any expressions of interests during the allotted three (3) month period.....Redevelopment authorities shall be so informed as soon as possible, but no later than four (4) months after the completion of the McKinney Act screening process.

Why: To adjust the timing so that it agrees with the revised time schedule proposed in subparagraph (d)(3). As written, the language would allow unnecessary delays to transition. In addition, it potentially allows for political or financial inducements that may be adverse to community interests and goals. Because the community concurrently works to develop a reuse plan (with the aid of state and federal dollars - Office of Economic Adjustment community assistance programs) while DoD carries out its policy on property disposal, it is essential to confer with the Local Redevelopment Authority in the decision making process. Taxpayer dollars are wasted when these principals fail to work jointly toward economic development of closing installations.

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Homeport Reuse Planning Committee
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Mobile, Alabama 36633
Phone: (205) 441-7115

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Page: 16131
Column: 16131 Column 2
Paragraph: (Section 91.7 (e)(4) Economic Development Conveyances)

Recommended Changes: Before making an economic development conveyance of real property, an appraisal or other estimate of the property's fair market value shall be made, based on the proposed reuse of the property. The Military Department shall consult with the Local Redevelopment Authority on appraisal assumptions, guidelines and on instructions given to the appraiser, but shall be fully responsible for completion of the appraisal and a copy of said appraisal shall be provided to the Local Redevelopment Authority, within 90 days, after completion of the reuse plan.

Why: Appraisal of Naval Station Mobile was completed and submitted to the SOUTHDIIV Naval Facilities Engineering Command, the week of 1 June, 1994 (coincidentally, the week following closure). The Local Redevelopment Authority was not consulted with regard to appraisal assumptions, guidelines or instructions. Further, the LRA has not been given sufficient time to complete its reuse plan, yet an appraisal of Naval Station Mobile has already been conducted. There is no method to the Navy's madness in its interpretation of the interim guidelines. The LRA is not sure as to whether or not an appraisal was conducted on the basis of jobs-centered property disposal or on the basis of economic development as dictated by the reverter agreement between the State of Alabama and the Department of Navy.

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Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
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Page: 16133

Column: 1

Paragraph: 3 (Section 91.7(g)(2)(i)Procedures/Leasing of Real Property)

Recommended Changes: The Secretaries of the Military Departments are authorized by P.L. 103-160, section 2906 to lease real and personal property at closing or realigning bases for consideration of less than the estimated fair market value, if the Secretary concerned determines in writing to the Local Redevelopment Authority(LRA) and/or requesting party: (i) That a public interest will be served as a result of the lease. (ii) That securing the estimated fair market value from the lease is not compatible with such public interest.

Why: The Local Redevelopment Authority in its efforts to secure interim leasing of the pier and its supporting facilities to date has not received substantive or logical explanations as to why the Department of Navy is unable to negotiate interim lease agreements regarding former Naval Station Mobile. Depending upon the Command to which you are speaking with, verbal responses vary. Written response with explanation, whether in support or refusal of interim lease proposals, from the appropriate departmental Secretary should accompany each response so as to facilitate the next step in the negotiation process.

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Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
Phone: (205) 441-7115

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Page: 16133

Column: 1

Paragraph: 3 (Section 91.7(g)(4) Procedures/Leasing of Real Property)

Recommended Changes: The Department of Defense shall establish a basic formula or "boiler plate" document to be used by all Military Departments to serve as a guideline for lease negotiations between the Local Redevelopment Authority and the command which owns the real property. Leasing authority should be relegated to the lowest possible level, with oversight disposition located at the Assistant Secretary level. The negotiating agent should be intimate with the personnel and administrative structures of the closing or realigning facility, be accessible to the community, be responsive to the redevelopment needs of the community while exercising prudent and consistent stewardship over these public assets. When requested by the Local Redevelopment Authority, the command negotiating the lease will provide, in writing to the LRA, an explanation as to the necessity to include specific language in the lease agreement.

Why: The impersonal nature of the Department of Defense bureaucracy undermines the intent of the President's Five Part Plan to minimize the negative economic impact resulting from the BRAC process. It is difficult, if not impossible, for jurisdictional administrative commands to possess insight into the uniquely complex problems, i.e. environmental cleanup or mitigation, specialized function or mission associated with base condition, special military operations consideration, etc., associated with each closing or realigning facility. Consultation and cooperation with the owner of the property/or Officer in Charge can expedite replicative and onus steps that restrict negotiations and closure of leasing agreements. Further, the Local Redevelopment Authority, in its efforts to secure interim leasing of the pier and its supporting facilities, to date has not received substantive or logical explanations as to why the Department of Navy is unable to negotiate interim lease agreements regarding former Naval Station Mobile. Depending upon the Command to which you are speaking with, verbal responses vary. Written response with explanation, whether in support or refusal of interim lease proposals, from the appropriate departmental Secretary should accompany each response so as to facilitate the next step in the negotiation process

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Page: 16133

Column: 2

Paragraph: 1 (Section 91.7(h)(1) Personal Property)

Recommended Changes:The Department of Defense will keep a great deal of the personal property at the base while the redevelopment study/plan is being conducted/developed. Only valid exemptions will be made to this freeze, usually involving the "military unique" or "mission essential" nature of the specific service being realigned or decommissioned.

Why: The Local Redevelopment Authority recommends that the Subparagraph (h)(1) phrase "or property which the base does not own." be removed from the guidelines. The statement allows for the removal of non-military unique or mission critical equipment, by other claimants or commands, that may be critical to the community's redevelopment efforts. As written, the LRA is forced to negotiate with multiple commands within a service in order to achieve its reuse strategy. In addition, most commands are physically and psychologically far removed from the impacted communities and lack any impetus to cooperate with the community efforts to recover from the base closure acts.

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Page: 16133

Column: 2

Paragraph: 2 (Section 91.7(h)(2) Procedures/Personal Property)

Recommended Changes: Each Military Department and Defense Agency, as appropriate, shall provide to the Local Redevelopment Authority, prior to closure or realignment of any unit located on a closing or realigning base, an inventory of the personal property as of the date closure of the facility is signed into law. The inventory shall include its condition and location and to include corresponding explanations of codes (key) used in inventory compilations.

Why: Naval Station Mobile compiled its inventories less than 30 days prior to closure (coincidentally dated June 1, 1994) of the facility. Less than 21 calendar days out from closure, the Local Redevelopment Authority was provided with an inaccurate, incomplete and unintelligible inventory of the remaining personal property on the facility. The inventory presented to the Local Redevelopment Authority did not relate to condition of personal property or the location of said property remaining on the facility. Further, prior to official cessation of operations at Naval Station Mobile, many items departed the facility under the definition of "in support of realigning units" or "immediate need of realigning units" when in fact, the equipment in question was not required or installed at the point and time of realignment. The suggested changes affords an accurate system of accountability that guarantees closing and realigning facilities and decommissioning units are not stripped of personal property essential to economic redevelopment.

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National Defense Authorization Act For FY94**

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: '93 BRAC/Alabama/County of Mobile/Naval Station Mobile/Homeport Reuse
Planning Committee
(Activity/Location/Community/Installation/Group)

Page: 16133-34

Column: 16133 Columns 2 & 3

Paragraph: 1 (Section 91.7(h)(3) Personal Property)

Recommended Changes:Based on these consultations, the base commander and the Local Redevelopment Authority will be responsible for determining the items or category of items potentially enhancing the reuse of the real property and needed to support the redevelopment plan.

Why: The base commander cannot make such determinations on his own in that he/she is not an expert in jobs and economic development and land planning. Even after consultation with the LRA, as prescribed in this paragraph, there is no protection, afforded to the community, from chain of command intervention in the event the base commander supports community goals.

Name: John P. Carey, Chair
Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
Phone: (205) 441-7115

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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Page: 16133-34

Column: 16133 Column 3

Paragraph: 1 (Section 91.7(h)(3) Personal Property)

Recommended Changes:Disagreements should be resolved within the chain-of-command, with final authority on resolving personal property issues resting with the Secretary of the Military Department or the Assistant Secretary of Defense for Economic Security.

Why: The change provides for civilian participation in the process. The ASD(ES) is an agent of the President's initiatives to minimize the adverse impact of facilities under the base closure acts. The Defense Department Director for real property may not be sensitive to adversities affecting the impacted communities nor may he be fully versed on BRAC closure and the interim rule. Also, by removing the language at the end of paragraph (h)(3)...."This authority may be further delegated."...the process remains unencumbered by reducing the number of people and/or steps by which decisions are made.

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Page: 16133-34
Column: 16133 Column 3 - 16134 Column 1
Paragraph: 1 (Section 91.7(h)(4)(i) Personal Property)

Recommended Changes: The Military Departments should make every reasonable effort to assist affected communities in obtaining the personal property needed to convert the bases into economically-viable enterprises. Personal property, as defined by accurate and timely inventories, not subject to the exemptions in paragraph (h)(5) of this section shall remain at a closing realigning base until one of the following time periods expires:

Why: The suggested change here insures early on in the process to both the Military Departments and the community that negotiations are based on an accurate and uniform listing of personal property. The Mobile Local Redevelopment Authority's experience in negotiating with the Navy on personal property issues has been negotiations based on inaccurate, incomplete and interim inventories. Complete and timely inventories are essential to determining what personal property exists and remains on site for reuse/economic development.

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Homeport Reuse Planning Committee
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Page: 16133-34

Column: 16133 Column 3 - 16134 Column 1

Paragraph: 1 (Section 91.7(h)(4)(i) Personal Property)

Recommended Changes:Personal property, as defined by accurate and timely inventories,
not subject to the exemptions in paragraph (h)(5) of this section shall remain at a closing
realigning base until one of the following time periods expires:

(i) One week after the date on which the redevelopment plan is approved by the
applicable Military Department.

Why: The change to subsection (i), paragraph (h)(4) allows for personal property to remain on
base until the Military Department authorizes or approves the LRA redevelopment plan. As
currently written, the guidelines allow the property to leave one week after submittal of the local
redemption plan. The guidelines do not insure that personal property will remain on site while
the jurisdictional department determines whether or not the proposed plan is acceptable. The
redemption authority's experience, throughout this process, has been that both Navy and
Defense personnel have not or can not resolve, authorize, administer, etc. any issue within one
week's time frame.

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Page: 16133-34

Column: 16133 Column 3

Paragraph: 1 (Section 91.7(h)(4)(iii)(iv) Personal Property)

Recommended Changes: Delete/Strike subsections (iii) and (iv) of Section (h)(4).

Why: As currently written the dates referred to in Section (h)(2) are not clear. Is DoD referring to June 1, 1994, the date closure is announced, the date the facility is declared excess, etc., because 24 months after any of these dates for 1993 closures does not, in most cases, equate to November 30, 1995. Further, subsections (i) and (ii) clearly allow sufficient time for the LRA to identify personal property for its reuse effort (if accurate and timely inventories have been provided by the services).

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Page: 16133-34

Column: 16133 Column 3 - 16134 Column 1

Paragraph: 1 (Section 91.7(h)(5)(i)(ii) Personal Property)

Recommended Changes: Combine subparagraphs (i)(ii) to read...(i) Is mission critical or military unique for the operation of a unit, function, component, weapon, or weapon system transferring to another installation not slated for closure, realignment, or decommission in the BRAC 1988, 1991, 1993 and 1995 cycles. A transferring unit or function may take personal property needed to implement assignments or orders existing at the time of transfer, provided suitable equipment will not be immediately available there and moving it is cost-effective.

Why: The Local Redevelopment Authority recognizes personal property that is defined as "mission critical" or "military unique" as meeting the intent of the Pryor amendment and the President's 5 Point Plan. Subparagraph (h)(5)(i) language, as written, includes major commands or claimants which allows for systematic stripping of personal property that may prove critical to economic redevelopment. In addition, personal property should not be transferred with decommissioning units or to facilities that are slated for closure unless it supports realignment that is "mission critical" or "military unique" in nature. This provision would eliminate the administrative "cherry picking" by DoD or other Federal Agencies.

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Homeport Reuse Planning Committee
Address: P.O. Box 1588
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Page: 16134

Column: 16134 Column 1

Paragraph: 1 (Section 91.7(h)(5)(v) Personal Property)

Recommended Changes: Meets known requirements of an authorized program.....In this context, "expenditures" means the Federal Department or Agency, at the time closure is signed into law, has obligated funds in the current quarter or the next six fiscal quarters..

Why: This change insures that planned/budgeted DoD procurement directives are met. It does not allow any command or claimant to pad its procurement budgets and their inventories at the expense of impacted communities (stockpiling issue). The LRA believes that if the Military Department commands or claimants did not articulate or budget (the need for) personal property, when outlining its short-term and long-term budget and equipment goals, these commands and claimants should not benefit from excess property stock at closing or realigning facilities.

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Page: 16134

Column: 16134 Column 2

Paragraph: 7 (Section 91.7(h)(7) Personal Property)

Recommended Changes: In addition to the exemptions in paragraph (h)(5) of this section, If a realigning unit, command or other claimants request personal property that is also requested by the Local Redevelopment Authority for reuse, the Military Department or Defense Agency is authorized to substitute an item of comparable function or value similar to one requested by the redevelopment authority only if the Defense agency has attempted to locate comparable personal property from:

- (i) Defense Reutilization and Marketing Service.
- (ii) Another installation.
- (iii) Other Federal Agency property surplus disposal systems, i.e. General Services Administration.

Why: The guidelines, as currently written, allows for delays in the Local Redevelopment Authority's efforts to develop and implement an economic recovery plan by removing key equipment and machinery. The rules also discourage early management and operation of real and personal property by the Local Redevelopment Authority, which could result in Military Department savings. The proposed revision would streamline the bureaucracy associated with a system-wide search for equipment resulting in substantial packing and transportation savings for the requesting DoD Agency. Cost benefit is hardly justifiable when the military disperses funds to (1) ship personal property from a closing facility, (2) ship personal property to a closing facility as replacement. Additional revenue loss is evident in the current guidelines from the standpoint of personnel productivity and encumbered paperwork

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Page: 16134
Column: 16134 Column 2
Paragraph: (Section 91.7(i)(2) Maintenance)

Recommended Changes: Public Law 103-160, section 2902 states that the Secretary may not reduce the level of maintenance.....except when the Secretary of the Military Department concerned determines that such reduction is in the National Security interest of the United States. This requirement remains in effect until both the real and personal property is deeded over to federal agency, state agency, local agency, Local Redevelopment Authority or private interests.

Why: The guidelines, as currently written, potentially allows for deterioration under the time scheme outlined in (h)(4) of this section. If Military Department maintenance responsibilities end:

- (a) one week after the redevelopment plan is submitted. Note: The facility is left vulnerable to the time frame used by the services to accept or reject redevelopment plans;
- (b) the date of which the LRA declines to submit a redevelopment plan. Note: The facility is left vulnerable to the length of time it takes for other interests to take title;
- (c) twenty four months after the dates referred to in paragraph (h)(2) of this section which for 1988, 1991, and 1993 base closures and realignments is November 30, 1995, or 24 months after the date of approval of the 1995 closures and realignments. Note: The Military Department can relinquish maintenance responsibility at an earlier date than stated in paragraph (h)(2). The date in paragraph (h)(2) does not refer to a specific date other than June 1, 1994. Is the intent paragraph (3)(ii) the date the facility is announced for closure, the date the facility closes, the date the facility is declared excess to DoD needs, etc...? As written, any base on the 1993 closure list which does not close in 1994 or 1995 may not be maintained by the services long enough to allow resolution of the BRAC process.
- (d) ninety days before the date of the closure or realignment of the installation. Note: Military Department planning seeks the earliest closure possible. In a compressed closure time schedule, the Military Departments, under this time frame, are not allowing adequate time for the property to complete the screening processes, much less complete property transfer to the community or non DoD entity.

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Page: 16134
Column: 16134 Column 3
Paragraph: (Section 91.7(i)(3)(ii) Maintenance)

Recommended Changes: The initial minimum level of maintenance and repair to support non-military purposes shall be determined, after consultation with the Local Redevelopment Authority, prior to closure or realignment of the base or unit. Inspection of all property affected by BRAC shall be reviewed by the LRA when it presents its redevelopment plan to insure the property has not deteriorated. Any deterioration to the infrastructural or the structural portions of the facility shall be repaired by the responsible Military Department. In no case shall the level of maintenance and repair:

- (i) Exceed the standard at the time of approval of the closure or realignment.
- (ii) Require any improvements to the property to include construction, alteration, or demolition, except that required by environmental restoration and that agreed to by the Military Department and the Local Redevelopment Authority prior to transfer of property.

Why: The guidelines, as currently written, potentially allows the Military Department to choose the level of maintenance without regard to potential reuse. It further does not set any standard for maintenance which reflects environmental or climate conditions of a region (arid areas not prone to natural disaster are less likely to require a level of maintenance than coastal, sub-tropical areas in tornado, hurricane or flood zones. The LRA is best suited to advise on the level of maintenance required. The guidelines do not assure the community that every attempt will be made to maintain the facilities, nor do they insure, in the event the Military Department does not prevent deterioration or damage, repairs will be made. Further, the guidelines do not take into account agreements or verbal commitments by the military to improve the property prior to transfer of deed.

Name: John P. Carey, Chair
Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
Phone: (205) 441-7115

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Helen



National Trust for Historic Preservation

1785 Massachusetts Avenue, N.W.
Washington, D.C. 20036
(202) 673-4000 / FAX (202) 673-4038

1110

August 5, 1994

The Honorable Joshua Gotbaum
Assistant Secretary of Defense for Economic Security
Room 3D854
The Pentagon
Washington, D.C. 20301

RE: Revitalizing Base Closure Communities and Community
Assistance, Interim Final Rule
32 CFR Parts 90 and 91
RINs 0790-AF61 and 0790-AF62

Dear Mr. Gotbaum:

The National Trust for Historic Preservation (the "National Trust") is pleased to have the opportunity to submit the following comments regarding the interim final rule promulgating Section 2903 of the National Defense Authorization Act for Fiscal Year 1994 and providing interpretive guidance concerning other changes to the base realignment and closure process generated by title XXIX of the Act.

The National Trust is a private nonprofit organization chartered by Congress in 1949 to promote public participation in the preservation of our nation's heritage, and to further the historic preservation policy of the United States. (See 16 U.S.C. § 468 et seq.). The National Trust's mission is to foster an appreciation of the diverse character and meaning of our American cultural heritage, and to preserve and revitalize the livability of our communities by leading the nation in saving America's historic environments.

The National Trust has been an active player in revitalizing America's distressed communities. Recognizing that neighborhood stability, vitality, and pride often emanate from a sense of place, of history and of community, the National Trust has entered into a number of active partnerships with local communities to use historic preservation as a key component of community development efforts.

In our work in cities and towns throughout the country, we have found that

The mission of the National Trust for Historic Preservation is to foster an appreciation of the diverse character and meaning of our American cultural heritage and to preserve and revitalize the livability of our communities by leading the nation in saving America's historic environments.

Revitalizing Base Closure Communities and Community Assistance

Interim Final Rule

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perhaps the most vital element of any community redevelopment effort is the creation of, and adherence to, a thorough and comprehensive redevelopment plan. For example, the National Trust's Main Street Program, which has helped over 850 communities in 35 states revitalize their abandoned and neglected downtown neighborhood commercial districts, emphasizes a comprehensive approach to community redevelopment, the first step of which is the creation of a thorough redevelopment plan incorporating economic restructuring, design improvement, promotional activity, and the building of strong public-private partnerships.

Since 1992, the National Trust has been a partner with the Department of Defense (DoD) through the Legacy Resource Management Program, coordinating efforts to plan for and manage cultural resources under DoD jurisdiction and becoming actively involved with reuse planning at installations and communities affected by base realignment and closure. Drawing on our previous community redevelopment experience, in working with Department of Defense cultural resource managers to achieve the goals of the Legacy Program and in our related work with local redevelopment authorities in base closure communities, our focus has been on assisting in the development of comprehensive preservation and redevelopment plans rather than actions on individual resources.

The National Trust applauds the Department's inclusion in the interim final rule the provision calling for the formation of a local redevelopment authority, the primary purpose of which shall be the development of a comprehensive local redevelopment plan [Section 91.7 (c)(1)]. However, the following Subsection (d), "Jobs-Centered Property Disposal", circumvents the planning process by allowing the Department of Defense to convey properties quickly for public or private development to speed up job creation without regard to the redevelopment plan. While potential investors will be "encouraged to work with the redevelopment authority so that their development goals will be compatible with the local redevelopment plan," there is no requirement to do so. The only recourse available for the local redevelopment authority in the likely event of a conflict of interest is to request a reconsideration of the decision to convey the property.

In sum, the jobs centered property disposal process could permit private interests to acquire and utilize assets without regard to, and even in conflict with, a reuse plan developed by the local community. Not only will the planning process itself be sacrificed for short-term financial gain, but the many benefits associated with careful and thoughtful planning -- long-term economic stability, community livability and the protection of historic and cultural resources -- will be lost as well.

The National Trust feels strongly that the jobs-centered property disposal process



**RICKENBACKER
PORT AUTHORITY**

FAX TRANSMISSION REPORT

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Date

Fri 5 Aug 94

To: Steve Kleiman and Frank Sarat
Asst Secy of Defense for Economic Security

Fax Number: 703-695-1493

From: Tom Rumora
base closure and community reuse consultant to RPA

Message Comments on interim rules..

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We are sending 10 pages including this cover sheet. If transmission is not complete, please call (614) 491-1401.

Executive Director

Lawrence D. Garrison

RICKENBACKER INTERNATIONAL AIRPORT

2365 Fred Halse Avenue • Columbus, Ohio 43217-1232 • 614-491-1401 • Fax: 614-491-0662

5 Aug 94

Assistant Secretary of Defense (Economic Security)
The Pentagon, Room 3D814
Washington DC, 20301-3300

Attn: Mssrs. Steve Kleiman and Frank Savat

As part of the public comment period for the "NDAA '94 interim final rules" (interim rules), I am pleased to provide the attached comments for your consideration.

As the base closure and community reuse consultant to the Rickenbacker Port Authority (RPA) for the past year and a half, I have gained many insights into the complexities and frustrations involved in disposal and redevelopment of military property from my travels to other bases, attendance at base closure conferences, and personal experiences.

To a large extent, I share the concerns and comments provided to you by the National Association of Installation Developers. I have not chosen to attach those comments to this letter, presuming that you are already taking them into serious consideration.

Please regard the attached as working comments which may require amendment as new information becomes available.

Thank you for your efforts to improve the process.

Sincerely,

RICKENBACKER PORT AUTHORITY

By

MILLER GENERAL SERVICES
Development Manager



Thomas M. Rumora
Assistant Development Manager

cc:

Lawrence Garrison, Rickenbacker Port Authority
Jim Atkinson, Ohio Department of Development
Cmdr. Tandy Brannan, Naval Reserve Center
Tony Clymer, Air Force Base Disposal Agency
Pamela Doyle, D.O.D. Office of Economic Adjustment
Jane English, National Association of Installation Developers
Mary Jagiello, Federal Aviation Administration

B/Gen. Steve Martin, Ohio Army National Guard
Rick McQuiston, D.O.D. Base Transition Office
Bruce Miller, Miller General Services
Ron Newland, Lockheed Air Terminal Inc.
B/Gen. John Smith, Ohio Air National Guard
Dennis Spearman, General Services Administration

RICKENBACKER INTERNATIONAL AIRPORT
INTERIM RULE COMMENTS

PHILOSOPHICAL ISSUES

First, it is acknowledged that the base closure and reuse process is an extraordinarily complex and frustrating puzzle to all participants -- lawmakers, military agencies, and community representatives. Few people can clearly explain the changing shape of the puzzle or describe more than a few of its parts, and when questions are asked about how individual pieces fit together, even the experts begin to issue disclaimers and urge "flexibility" and "cooperation" among puzzle players. I can appreciate your dilemma in trying to add a new and unusually-shaped piece to an already confusing box of mismatched and broken puzzle parts which date back over several decades. As you no doubt have learned, this process inevitably alienates even the most enthusiastic puzzle players.

Behavioral scientists would suggest that it is the nature of government agencies to resist change, and that individuals in these agencies, particularly those who have endured many previous "new rules" and "solutions", may respond to constant changes with frustration and resentment, interagency rivalries, adversarial attitudes, defensive non-responsiveness, defiance, creative sabotage of new rules with old rules, and criticism of lawmakers who don't really understand the issues or impacts of their proposed changes. Considering that there have been continuing well-intentioned "fixes" to the base closure process for 50 years, it may be no wonder that the system is so cumbersome and inadequate. Not counting the myriad of environmental regulatory changes, the base closure process has evolved from GSA and the Army Corps of Engineers to AFBCA, to the President's 5-part program, and now to yet another round of laws, rules, and regulations. While the motivation of each of these actions, and many more not listed here, may have been well-reasoned, the net effect is chaos, requiring charts with 300 or more boxes and arrows just to "summarize"!

RICKENBACKER INTERNATIONAL AIRPORT

INTERIM RULE COMMENTS

GENERAL ISSUES

At a briefing I attended in Chicago several weeks ago, I asked whether a "ready market" determination would have precedence over a public benefit transfer for airport purposes, and the answer was "yes". I have since been informed that this is not the case. This is an example of the confusion and frustration felt at the local level when even the presenters don't know the right answers! Another version of this question is whether one facility can request both a public benefit transfer for part of the property, and an economic development transfer for the remainder?

Ready market provisions are confusing because they refer to "high value" property which has not had expressions of interest within 6 months. These seem to be contradictory concepts.

Provisions of the interim rules which seek to sell "ready market" properties quickly for public or private development to enhance employment opportunities may not work in several circumstances. Communities and local redevelopment authorities may not have the resources to purchase property on their own, or to develop the leftover property after "cherrypicking" of the most easily salable parcels. For BRAC '88 and '91 bases, years of planning may be undone by this process. The first opportunity for quick sale may not be the best long-term decision for economic stability. An entrepreneur/developer who may purchase property in this fashion is not bound to uphold the community's reuse plan. The objective of raising cash presumes that the subject property is an immediate asset, when in fact there may be any number of environmental, legal, physical, economic, infrastructure, and other factors which combine to create a long-term liability whose magnitude exceeds local resources.

One of these liabilities involves environmental remediation. The true nature and extent of contamination at military installations can take years to determine. Public agencies which purchase property with the intent of remediating it themselves could become potentially responsible parties in a Superfund site. Since DoD and EPA are still consulting on this concept, communities would be wise to proceed cautiously.

The concept of providing early notification to local communities regarding intentions to sell property for job stimulation (or for any other purpose) is a good idea. In the past, when large revenues were anticipated, GSA and AFBCA could not disclose their intentions for fear that such action would prejudice the ROD. A community should be informed regarding disposal intentions at the time of base closure announcement, so that a meaningful and realistic reuse plan can be prepared.

Personal property still seems to be confused in the interim rules, in spite of indications that this would be a major focus of improvement. Large-scale retention of personal property for local reuse, as seemingly conveyed in Mr. Deutsch's guidelines of several months ago, now appear to allow rapid disposal of personal property without local input or consideration.

On the subject of providing input to proposed laws, rules, and procedural changes, it should be noted that each community is usually left to its own devices to interpret the impacts of a what are often vague, sweeping, well-intentioned words which do not accurately reflect local conditions and may appear to contradict other applicable processes. This is how problems begin -- when neither the government implementors nor the community representatives know precisely what to expect. Understandably, this leads to caution and defensiveness on both sides. In order to lessen the confusion, suspicion, misinterpretation, and frustration felt by local communities with each new law, rule, etc., requests for comments could include an individualized description of the intended positive impacts on each affected facility from the new procedures. In this fashion, with a clear and specific explanation of how the proposed change is intended to benefit the local community, better input to future decisionmaking will be facilitated. If this is infeasible, perhaps future requests for comments could include a detailed explanation of an ideal scenario in which the new measure will be most useful and a situation in which the new measure will have detrimental impacts. In the final analysis, unless the creators of laws, rules, etc. know how the implementors will apply the intended "improvements" to real-world situations, the endless cycle of frustration and change will only continue to add new odd-shaped pieces to a puzzle no one can assemble.

"Fair market value" is not clearly defined in terms of the "as-is where-is" nature of the property, and the infrastructure deficiencies, etc. which might affect the determination of whether a property is considered an "asset" or a "liability".

In general, the interim rules seem as complex as the rules they intend to improve. It is very difficult to explain such complexities to local community members, elected officials, and media representatives.

RICKENBACKER INTERNATIONAL AIRPORT

INTERIM RULE COMMENTS

SPECIFIC ISSUES

Other than the transition coordinator's assistance, neither the President's 5-part community reinvestment program nor the interim rules appear to provide significant assistance to Rickenbacker. Since RPA is seeking an FAA-supported no-cost public benefit transfer of all excess military property for airport and revenue purposes, neither the ready-market purchase nor deferred-cost/profit-sharing approaches are desirable. Since environmental clean-up agencies believe they have always been going as fast as possible, no fast-tracking seems to be underway, and like most military facilities, the base has been nominated to the National Priorities List, which may actually delay the process of remediation. Since drawdowns over the last 15-20 years have removed most of the 16,000 personnel once stationed at this former Air Force base, training programs and other services for displaced workers may only be applicable to a few dozen remaining civilian personnel who will be cut at the time of official realignment (30 Sept 94). Rickenbacker's location within Central Ohio's strong economic region disqualifies it from large-scale economic development planning grants.

As may be true at other bases, there are unique complications at Rickenbacker, not addressed by the interim rules, which create major challenges to reuse.

The U.S. Property and Fiscal Officer (National Guard) has expressed concern that all real and personal property at Rickenbacker may fall under his jurisdiction, and has questioned AFBCA's and RPA's role in the process.

HUD appears to have mistakenly declared buildings inside a 2000-foot safety zone around Rickenbacker's 6-million-gallon fuel storage area to be "suitable" for homeless housing, and the remaining ANG unit plans to construct a new fuel storage area within 2000 feet of the proposed homeless housing area.

Being a realignment rather than a closure, the remaining military units need to retain operations in several out-parcel "islands" for several years, which may complicate the caretaker agreement and delay reuse efforts.

Remaining Air National Guard and Army National Guard units have decided to maintain ownership of their real property, thereby requiring that costly and time consuming base closure and environmental impact studies be redone in the event of future closures in '95 or thereafter.

Because AFBCA will not authorize building demolition, several

buildings will have to be removed at local expense, including buildings listed for demolition by the military years ago.

The legal requirement that comprehensive lists of personal property be provided to the local redevelopment authority within 6 months comes after a local process was implemented which did not necessitate such lists.

Personal property identified for interim use of a 200-room billeting facility is being sought by another base.

No appraisals or surveys of property to be exsessed are yet available.

All interim lease applications may have to be cancelled due to excessive sanitary sewer infiltration costs which cannot be borne by tenants.

Miles of aboveground asbestos-wrapped heat pipes which extend throughout both the excess military and RPA property are not included in environmental remediation plans, thereby costing the community \$1 million or more to remove.

Information does not seem to be available within current environmental studies to clarify whether non-conventional weapons or materials were used or stored at the base, or what was stored in the munitions bunkers by a local research laboratory.

A golf course sold by GSA a decade ago to raise funds from base closure activities may have to be repurchased at local expense in order to implement long-range airport expansion plans.

As is often the case, there are no interim rules which cover these issues.....and the process continues.

RICKENBACKER INTERNATIONAL AIRPORT

INTERIM RULE COMMENTS

SUGGESTIONS

Final rules should be delayed until further improvements can be made, particularly regarding personal property procedures and priorities.

Patchwork solutions should be replaced with a new baseline of simplified rules and regulations before the expected '95 base closure announcements which are rumored to be the largest yet. The McKinney Act, for instance, never was and never will be suited to the base closure process. Procedures devised for World War II surplus items cannot be expected to be the foundation of property disposal efforts forever. A system without universally agreed definitions of terms such as "mission essential" and "economic development" cannot hope to be understandable or efficient. Terms such as "fast-tracking", "no-cost", "local control", and other new and improved procedures which were themselves "improvements" to prior procedures, are by now so misused that they obscure the true nature of the process. A fresh approach is in order.

In general, caution should be exercised in encouraging communities to acquire excess military property, and a full disclosure of representative unsuccessful case studies should be part of a cooperative public/private negotiation process immediately upon announcement of base closure. This would provide a context for local decisionmaking which spanned the full range of potential challenges and pitfalls. The lure of free or discounted property can cloud rational analysis and lead to mistakes whose social, economic, and environmental impacts may be felt throughout the local community for decades. In response to my question to a panel of reuse experts at a base closure conference last year, every panelist agreed that there are a number of circumstances under which a community should not attempt reuse of a closing facility.

Even with the interim rules, community representatives are still at a distinct disadvantage in negotiating with base closure agencies due to the lack of adequate resources, documents, experience, and legal counsel to discover the terminology, procedural nuances, and administrative variances which may affect reuse plans and choices. Copies of all pertinent laws, rules, regulations, guidelines, etc., in the form of flow charts, 3-ring binders, case studies, agency rosters, and related items should be provided to all redevelopment authorities at the announcement of base closure, in order to even the playing field.

Once the local redevelopment concepts are formulated, via preliminary redevelopment plan, FAA comprehensive and coordinated reuse plan, or other documents and discussions, homeless proposals should be accepted only at the discretion of AFBICA and the local

redevelopment authority.

Personal property disposal should be simplified by dictating that only mission essential items can be retained. All other property should be made available to the local community for reuse within the community area. Military units from throughout the country who look upon base closure as a "shopping center" for newer items should be discouraged. Negotiations should be handled at the local level, with flexibility for the base commander to decide how, when, and where to loan or dispose of vehicles, furniture, machinery, and other items of use to local job creation activities.

Property acquisition through the deferred-cost/shared-profit provisions of the Rules may only delay the inevitable conflict between local-level "dreams" and "means". Reuse efforts require extraordinary vigilance and investment over lengthy timeframes in order to be successful. Predicting operational breakeven points, development costs, regulatory impacts, global market trends, and local economic conditions over upcoming decades is difficult at best. Therefore, acquiring land today under the condition that profits will be shared tomorrow may be precisely what will destroy the local redevelopment authority's momentum at the worst possible time, i.e., profit sharing may divert funds needed for infrastructure improvements. Communities which select this avenue may later discover that growth can actually be compromised by the terms of the agreements they so willingly signed years before.

Wherever possible, new rules should totally replace old rules, or better yet, most rules could be eliminated in favor of a greatly simplified "mission statement" system by which the base commander is provided broad responsibility, with GSA/AFBCA or other guidance and funding, for creative approaches and unique solutions to special problems. Since the base commander is already managing all real and personal property issues on the base while representing the service branch within the local community, this simplified process could facilitate knowledgeable and locally-sensitive disposal actions without cumbersome bureaucracy. Also, since most issues already have to be solved by lengthy research and "negotiated interpretation", this simplified process would at least bring the negotiations down to the local level.

Wherever possible, each new law, rule, regulation, guideline, or procedure should strive to totally delete two previous laws, rules, regulations, guidelines, or procedures, so that the net effect is to significantly reduce the number of pieces in the puzzle, simplify the overall size and shape of the puzzle, ensure the standardization of tabs and slots whereby puzzle parts interconnect, reduce the number of persons required to assemble or disassemble the puzzle, and generally improve the experience of all future puzzle players.

Heiler
New York City
Economic Development
Corporation

110 William Street
New York, NY 10038
212/619 5000

August 4, 1994

Office of the Assistant Secretary
of Defense for Economic Security
Room 3D854
The Pentagon
Washington, D.C. 20301

1112



Dear Sir:

On behalf of Mayor Giuliani and as head of the New York City Task Force and representative of the New York City Commission on the Redevelopment of Naval Station New York, please accept my comments regarding the Rules and Regulations set out in 32 CFR Parts 90 and 91 listed in Volume 59, Number 66 of the Federal Register.

It is our position that bases covered by reversion clauses should be returned -- consistent with the Pryor Bill and the President's Five Part Plan -- to the local authority without consideration. If the intent of Pryor is to relieve the Department of Defense of costly closure and caretaker obligations and allow communities to competitively seek reuse options for these bases, then bases with reverter clauses must be afforded the same opportunities.

As you may realize, Staten Island has been significantly impacted by the closure of Naval Station New York. Because of the abrupt closure only several years after the base was constructed, the economic development benefits promised to the community were never truly realized.

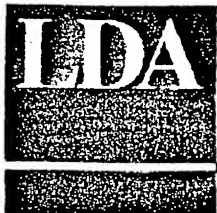
Now the City is faced with the difficult task of finding new tenants who will maximize the economic benefit to the community and providing for the security and maintenance of the site. It is essential that the base be returned to the City without consideration so that we can accomplish these tasks. Further burdening local municipalities with additional costs will only exacerbate negative impacts and significantly diminish essential economic development opportunities.

I trust your office will recognize the importance of this critical issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Ward". The signature is fluid and cursive, with a large, sweeping "C" and "W".

Chris Ward
Senior Vice President



Loring Development Authority Of Maine

August 5, 1994

1113.

Office of the Assistant Secretary of Defense For Economic Security
Room 3D814, The Pentagon
Washington DC 20301

RE: Comments of Loring Development Authority on Interim Rule

To Whom It May Concern:

Loring Development Authority (LDA) appreciates the opportunity to provide these comments on the Interim Rule promulgated pursuant to the National Defense Authorization Act for fiscal year 1994, 107 stat 109. The LDA looks forward to working with the Department of Defense in our joint effort to redevelop Loring Air Force Base and to revitalize the communities that have been impacted by the closure.

Although the Interim Rule represents a significant step forward in promoting a rational, comprehensive "redevelopment" approach to base reuse, we believe that the proposed regulations have not stepped far enough away from the traditional "disposal" approach. Examples of this problem, pertinent to our situation at Loring, can be seen in the following areas:

1. Real Property Screening Since the Department of Defense is required in the first instance to dispose of property in accordance with General Services Administration property disposal regulations, the Department of Defense entities, other federal agencies and homeless providers have priority in identifying properties they would like to acquire when the base closes. It is only after property has been determined to be not needed by the Department of Defense and other federal agencies and no homeless interest is determined to exist by the Department of Health and Human Services that it becomes available for transfer by direct sale, negotiated conveyance through the local redevelopment authority, public benefit conveyance or economic development conveyance. Although much consultation with the local redevelopment authority is built into the process, which is critical, the ultimate legal authority for disposal of the property rests with the Department of Defense. As a consequence, a government agency, whose location on the base is a valuable economic boost, could select a site and/or buildings on the base which private developers might be able to use and which are not the only sites

Loring Development Authority of Maine Trustees:

Michael W. Aube, Paul R. Cariani, Donald F. Collins, David I. Dorsey, Daniel LaPointe, Elizabeth B. Reuthe, Brian E. Thibreau,
Arthur H. Thompson, Robert D. Umphrey, Albert L. Watt, Lyndel J. Wishcamper

PO BOX 457, LIMESTONE ME 04750-0457

Phone (207) 328-7005 Fax (207) 328-6811

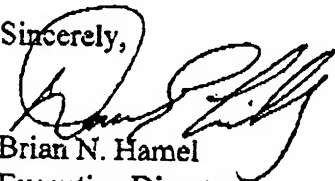
which could be used by the federal government agency. The preference rule thus might interfere with the redevelopment plan.

2. Jobs - Property Disposal The addition of this authority is a highly positive development in our view. Again, however, the Department of Defense - in our case, acting through the Air Force - should not, even after extensive consultation with the local community, be able to make final determinations about offering property for sale in a piecemeal and preemptive manner. At various conferences, the Department of Defense has indicated that the ultimate control over this process that a local development authority has is in its zoning power, but in our case, for example, we do not yet have land use regulatory control and, in any event, after-the-fact zoning presents some potential legal difficulties. The Department of Defense should not have the power, over the objection of the local redevelopment authority, to sell substantial portions of a base where such a sale conflicts with the redevelopment plan.
3. Relationship of Interim Rule to 1988, 1991 and 1993 Base Closures There are several ways in which the Interim Rule recognizes that it may not work with respect to earlier base closures in the 1988 and 1991 round of base closures. Among the issues we confront that it does not adequately address is the need to go through a second round of McKinney Act screening.

We believe that the process of property disposition should be less incremental and preemptive, and more directly related to, indeed governed by, a comprehensive redevelopment planning and decision-making process. Such a process, taking into account property, infrastructure, environmental and market conditions, as well as land use and regulatory considerations, would more effectively determine whether, and to what extent certain properties lend themselves to the various conveyance alternatives, and all in the interests of long-term comprehensive base redevelopment. In this regard, we support and endorse the sensitivities expressed by NAID in their Draft Joint DoD-Community Cooperative Marketing Approach In Accordance with the Community Base Reuse Plan, dated July 21, 1994 (attached).

Our more specific comments are included in the format provided for comments attached to this letter. Again, we appreciate the opportunity to comment on the Interim Rule and believe that many of its features represent a substantial step in the right direction.

Sincerely,


Brian N. Hamel
Executive Director

Ind. Ex. Dir.

BNH/DEL/maw

Enclosure

COMMENTS ON THE LORING DEVELOPMENT AUTHORITY
Comments on the Interim Rule
Implementing Title XXIX of the
National Defense Authorization Act for FY94

To: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington DC 20301-3300

From: Loring Development Authority of Maine (LAFB)

Page 16128
Column 1
Paragraph 91.7(a)(1)

Recommended Changes:

Early identification of federal agency interest in properties should allow federal needs to be addressed as part of the local development authority's reuse plan.

Why:

Federal decisions should not be preemptive and piecemeal, but should be integrated into the redevelopment process.

Name: Brian N. Hamel, Executive Director
Loring Development Authority of Maine
Address: PO Box 457
Limestone ME 04750-0457

Phone: 207-328-7005

Comments on the Interim Rule
Implementing Title XXIX of the
National Defense Authorization Act for FY94

To: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington DC 20301-3300

From: Loring Development Authority of Maine (LAFB)

Page 16128
Column 2
Paragraph 91.7 (a)(3)

Recommended Changes:

Transfer of real property between Military Departments should not be approved until incorporated into the local redevelopment authority's reuse plan.

Why:

Federal decisions should not be preemptive and piecemeal, but should be integrated into the redevelopment process.

Name: Brian N. Hamel, Executive Director
Loring Development Authority of Maine
Address: PO Box 457
Limestone ME 04750-0457

Phone: 207-328-7005

P.6

Comments on the Interim Rule
Implementing Title XXIX of the
National Defense Authorization Act for FY94

To: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington DC 20301-3300

From: Loring Development Authority of Maine (LAFB)

Page 16128
Column 2
Paragraph 91.7 (a)(5)

Recommended Changes:

Amend the last sentence to read, "Decisions on the transfer of property to other Federal Agencies shall be made by the Military Department concerned in consultation with the local redevelopment authority, and in conformance with the redevelopment plan."

Why:

Federal decisions should not be preemptive and piecemeal, but should be integrated into the redevelopment process.

Name: Brian N. Hamel, Executive Director
Loring Development Authority of Maine
Address: PO Box 457
Limestone ME 04750-0457

Phone: 207-328-7005

Comments on the Interim Rule
Implementing Title XXIX of the
National Defense Authorization Act for FY94

To: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington DC 20301-3300

From: Loring Development Authority of Maine (LAFB)

Page 16128
Column 2
Paragraph 91.7 (a)(7)

Recommended Changes:

The Secretary shall postpone any federal agency request for transfer until such transfer has been approved by and incorporated in the local redevelopment authority's redevelopment plan.

Why:

Federal decisions should not be preemptive and piecemeal, but should be integrated into the redevelopment process.

Name: Brian N. Hamel, Executive Director
Loring Development Authority of Maine
Address: PO Box 457
Limestone ME 04750-0457

Phone: 207-328-7005

Comments on the Interim Rule
Implementing Title XXIX of the
National Defense Authorization Act for FY94

To: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington DC 20301-3300

From: Loring Development Authority of Maine (LAFB)

Page 16129
Column 1
Paragraph 91.7 (b)

Recommended Changes:

1988 and 1991 closures that have already undergone McKinney Act screening should not be required to repeat the screening process.

Add new subparagraph (b)(14) to create a waiver provision similar to (d)(7) and (e)(7).

Why:

There is no reason to require a second round of McKinney Act screening.

Name: Brian N. Hamel, Executive Director
Loring Development Authority of Maine
Address: PO Box 457
Limestone ME 04750-0457

Phone: 207-328-7005

Comments on the Interim Rule
Implementing Title XXIX of the
National Defense Authorization Act for FY94

To: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington DC 20301-3300

From: Loring Development Authority of Maine (LAFB)

Page 16130
Column 2
Paragraph 21.7 (c)(1)

Recommended Changes:

In the last sentence, replace the word "generally" with "wherever possible"; and add to the end of this sentence the words, "[the local redevelopment plan]... and shall be used as the guiding policy document in making final the property disposition decisions."

Why:

In accordance with the importance accorded the redevelopment plan and philosophy expressed by the Amendments, and by the President's Five Point Plan.

Name: Brian N. Hamel, Executive Director
Loring Development Authority of Maine
Address: PO Box 457
Limestone ME 04750-0457

Phone: 207-328-7005

Comments on the Interim Rule
Implementing Title XXIX of the
National Defense Authorization Act for FY94

To: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington DC 20301-3300

From: Loring Development Authority of Maine (LAFB)

Page 16130
Column 3
Paragraph 91.7(d)(2)

Recommended Changes:

Amend the next to the last sentence in this paragraph to read: "Additionally, the appraisal shall not be based on the highest and best use, but the most likely range of uses consistent with the local redevelopment plan."

Why:

The redevelopment plan is needed to establish credible "local interest".

Name: Brian N. Hamel, Executive Director
Loring Development Authority of Maine
Address: PO Box 457
Limestone ME 04750-0457

Phone: 207-328-7005

Comments on the Interim Rule
Implementing Title XXIX of the
National Defense Authorization Act for FY94

To: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington DC 20301-3300

From: Loring Development Authority of Maine (LAFB)

Page 16130
Column 3
Paragraph 91.7 (d)(3)(ii)

Recommended Changes:

Amend to read: "If ...an expression of interest received demonstrates...ready market, the prospect of job creation, offers proceeds consistent with the range of estimated fair market value, and is consistent with the redevelopment plan, it may, with local redevelopment authority concurrence, offer the property for sale."

Delete: "...and the redevelopment authority shall be notified. The redevelopment authority may request...of this section."

Why:

Federal decisions should not be preemptive and piecemeal, but should be integrated into the redevelopment process.

Name: Brian N. Hamel, Executive Director
Loring Development Authority of Maine
Address: PO Box 457
Limestone ME 04750-0457

Phone: 207-328-7005

P. 12

Comments on the Interim Rule
Implementing Title XXIX of the
National Defense Authorization Act for FY94

To: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington DC 20301-3300

From: Loring Development Authority of Maine (LAFB)

Page 16131
Column 2
Paragraph 91.7(d)(5)

Recommended Changes:

The local redevelopment authority's request that the Secretary reconsider a decision to offer property through the jobs-centered property disposal mechanism shall ordinarily be granted, unless compelling reasons justify the sale over the objection of the local authority.

Why:

The local redevelopment authority will know the economic potential of the various potential reuses better than the Military Department and typically the military should defer to its greater knowledge.

Name: Brian N. Hamel, Executive Director
Loring Development Authority of Maine
Address: PO Box 457
Limestone ME 04750-0457

Phone: 207-328-7005

P. 13

Comments on the Interim Rule
Implementing Title XXIX of the
National Defense Authorization Act for FY94

To: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington DC 20301-3300

From: Loring Development Authority of Maine (LAFB)

Page 16131
Column 3
Paragraph 91.7 (e)(6)

Recommended Changes:

Should be revised to read: "Before making an economic development conveyance of real property, an appraisal or other estimate of the property's current fair market value in an 'as-is, where is' condition will be made, based on current local zoning and the proposed use of the property, adjusted by the offsetting estimated value of infrastructure improvements to support the proposed reuse."

Why:

To establish appropriate market value.

Name: Brian N. Hamel, Executive Director
Loring Development Authority of Maine
Address: PO Box 457
Limestone ME 04750-0457

Phone: 207-328-7005

F.14

Comments on the Interim Rule
Implementing Title XXIX of the
National Defense Authorization Act for FY94

To: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington DC 20301-3300

From: Loring Development Authority of Maine (LAFB)

Page 16132
Column 1
Paragraph 91.7 (e)(4)

Recommended changes:

Revise: The fact that an expression of interest may have been received pursuant to the jobs-centered property disposal authority, however, does not by itself constitute an indication that a base closure has not had a substantial economic impact.

Why:

One or two isolated expressions of interest may very well bear no relationship to the actual economic impacts on the communities.

Name: Brian N. Hamel, Executive Director
Loring Development Authority of Maine
Address: PO Box 457
Limestone ME 04750-0457

Phone: 207-328-7005

**Comments on the Interim Rule
Implementing Title XXIX of the
National Defense Authorization Act for FY94**

To: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington DC 20301-3300

From: Loring Development Authority of Maine (LAFB)

Page 16133
Column 2
Paragraph 91.7(h)

Recommended Changes:

This entire section presents an unnecessarily complex process, and are likely to generate tension, if not conflict, between the DoD and the local redevelopment authority. Recommend revision and simplification to retain all assets, except military essential, until rational personal property retention decisions can be made, based on a redevelopment plan.

Why:

Name: Brian N. Hamel, Executive Director
Loring Development Authority of Maine
Address: PO Box 457
Limestone ME 04750-0457

Phone: 207-328-7005



National Association of Installation Developers

Jane English
President

DRAFT

July 21, 1994

Joint DoD-Community Cooperative Marketing Approach

In Accordance With The Community Base Reuse Plan

The National Association of Installation Developers believes that the DoD Interim Final Rules calling for DoD to conduct "ready-market" tests for all base closure properties is an unworkable and inappropriate public policy, which conflicts with the inherent community responsibility to replan and redevelop the surplus base property. NAID recommends that the few cases involving potential "high-value" properties can be identified far more realistically in cooperation with the communities and in accordance with the approved community base reuse plan, as follows:

1. The communities would be required to complete their base reuse plans in a timely manner (i.e. within 18 months of planning assistance funding by DoD/OEA) -- including the identification of the facility strengths and weaknesses from a competitive marketing standpoint, opportunities to replace the lost DoD jobs with type of employment sought by the community, and the long-term market opportunities for the properties.
2. The communities will ensure that the base reuse plans include a market analysis and an identification of the major public infrastructure and facility improvements needed to implement the approved base reuse plans -- including the costs of bringing the infrastructure and facilities up to federal, state and local codes (or the alternative demolition involved). The community base reuse plans will also provide a financial analysis of the business-related revenues as well as the capital and operating costs for the property over a 15-year period that would be anticipated from community redevelopment of the base. The community reuse plan should identify the type, quantity and quality of jobs sought by the community in the property reuse.
3. The community base reuse plan will also describe how the value of the real estate in its current "as-is-where-is" condition (based on existing facility conditions, present infrastructure, and current land use zoning) can be enhanced by local zoning, development entitlements and the orderly provision of public

improvements.

4. As a result of Steps 1, 2, and 3, the community base reuse plan will in effect become a well-documented land use plan supported by a long-term business plan for the base property.
5. DoD will refer copies of all federal, state and local requests for property received during property screening to the community base reuse steering committee (or ~~local redevelopment authority~~); DoD will also defer any final property transfer decisions until the various proposals can be considered within the community base reuse planning process.
6. DoD and the Military Departments will continue to use the approved community base reuse plans as the "preferred alternative" in the property disposal EIS, and will also now use the community base reuse plans for their decisions: (1) on how the property should be marketed most effectively, and (2) whether to convey the property for Economic Development purposes under Section 2903.
7. The entire base will be viewed as a cohesive parcel of real estate. The communities will not be required to purchase specific parcels (such as golf courses and family housing) apart from the final decision as to how the entire base will be managed, redeveloped and financed. The parcels with early reuse potential should be used to provide an income stream to support of the long-term development of the entire property.
8. The responsibility for marketing the property will rest solely with the community, except in those few cases where the community has not completed its base reuse plan in a timely manner. The community will intensively market the property in keeping with the long-term job creation goals identified in Step 3 -- with the Military Departments receiving their maximum cumulative net property sales/lease profits (40 percent) in non-rural areas over the long-term through the orderly redevelopment of the property.
9. DoD will reach a consensus with the impacted communities as to the normal types of community operating and capital costs that will represent reasonable community expenses for marketing, maintaining and developing the base facilities over the long-term to arrive at the net sales/lease value proceeds from the property. Off-site capital expenses necessary to open the base property to further density (hence value), such as improved highway access, will be recognized as a reasonable community cost.
10. The Military Departments will reach agreement with the local redevelopment authority on any deed restrictions to be included in the final Record of Decision (ROD) and will share the ROD in draft with the local redevelopment authority.

11. The communities will utilize the services of the residential, commercial and industrial brokerage professions wherever appropriate to provide maximum exposure for the surplus DoD base facilities. This key marketing step requires that brokerage fees be explicitly recognized in the DoD Final Rules as an appropriate community development cost that will take maximum advantage of existing real estate market mechanisms.

Special Features for the Few Possible "High-Value" Properties:

12. The local redevelopment authorities will actively reach out to the appropriate real estate development profession to identify possible high-value properties, especially after local zoning and entitlements have been provided by the community. In the major metropolitan areas where high-value properties are most likely to be located, the local redevelopment authorities will seek the advice of qualified professional groups, such as the Urban Land Institute regional councils or others. This advice-seeking step will follow the approach used in Denver-Aurora for Lowry AFB in cooperation with the local ULI regional council. The comments of these professional groups will be incorporated wherever possible in the final community base reuse plan.
13. In those instances where the community base reuse plan suggests "high-value" properties, the Military Departments will be authorized and encouraged to enter into joint venture agreements where the preponderance of the net sales/lease values will be returned to DoD over the long-term. These "high value" properties could also be transferred to communities under Section 2903 for economic development purposes, but for value in excess of current fair market value based on current conditions and current zoning. As limited partners in the joint venture reuse of the property, the Military Departments will be encouraged to participate in the land use planning process, in the development of Request-for-Qualifications and Requests-for-Proposals for the competitive sale/lease of major parcels, and the final contractor competitive selection process.
14. In those instances where the Military Department believes that "high-value" property may exist, DoD will retain an independent non-profit association, such as the American Society of Real Estate Counselors or the Urban Land Institute, to offer its recommendations as to the optimum reuse of the property based also on the community base reuse plan but also including other development features to enhance the goals in the community base reuse plan. Community input will be encouraged in this independent review process.
15. The community will be provided an opportunity to submit new information or new offers for disposal of a local "high-value" property.
16. In the event that the community does not complete a community base reuse plan,

or in the event that the revised community offer is substantially below the independent third-party development recommendation, DoD and the Military Department reserve the option to sell the property at open bid sale, but subject to the community base reuse plan when available.



General Services Administration
Federal Property Resources Service
Washington, DC 20405

Helen DRH

JUL 22 1994

1114

The Honorable Joshua Gotbaum
Assistant Secretary of Defense for
Economic Security
Room 3D854
The Pentagon
Washington, DC 20301

Dear Mr. Gotbaum:

The General Services Administration has reviewed the Department of Defense (DOD) interim final rule implementing Title XXIX of the National Defense Authorization Act for Fiscal Year 1994 (P.L. 103-160) and establishing policy and procedure under the President's Five-Part Plan, "A Program to Revitalize Base Closure Communities," and offers the following comments:

1. Disposal Process

The 1988 and 1990 base closure and realignment statutes direct the Secretary of Defense, under delegation from the Administrator of General Services, to utilize and dispose of property pursuant to the provisions of the Federal Property and Administrative Services Act of 1949 (FPA), as amended, and its implementing regulations. Under the FPA, property is first made available for further Federal use. In the absence of such need, the property is made available to State and local governments by negotiated sale and/or at reduced or at no cost for certain public benefit purposes such as health including homeless, education, park and recreation, prisons, and airports. If property is not acquired by State and local governments it is then offered for public sale. Section 2903 of P.L. 103-160 (Pryor Amendment) preserves the FPA authorities and in addition authorizes the conveyance of base closure properties to redevelopment authorities at less than fair market value for economic development purposes.

After reviewing the proposed regulations as well as the flow chart included as Appendix A, we are unclear as to the exact disposal process and believe that the regulations, as written with less than specific guidelines and procedures, may not assure full and effective opportunity both for further Federal utilization transfers and for public benefit discount conveyances including the economic development conveyance authorized under the Pryor Amendment.



In particular, under section 91.7(d) of the proposed rule discussing "Jobs-centered Property Disposal," it appears that properties determined as having a high value and a ready market may first be made available for sale to the general public.

Although we understand the need for limited discretionary authority, we would like to note the importance of disposal process priorities. The traditional combining of public benefit disposals with negotiated and public sales has been demonstrated to be an effective response to the economic hardship of base closure. The lack of clear and definitive criteria and disposal guidelines can only lead to confusion and disposal inconsistencies and ultimately may not ensure beneficial reutilization and redevelopment of installations within the local communities.

2. Fair Market Value/Appraisal Process

The Pryor Amendment authorizes the conveyance of base closure properties to redevelopment authorities at less than fair market value for economic development purposes. The Amendment itself does not attempt to modify or change the definition of fair market value. However, the implementing regulations (sections 91.7(d) and (e)) speak of basing value not on the highest and best use but on the most likely range of uses consistent with local interests. This is not the appraisal standard for providing value estimates and this action would undermine the premise upon which the fair market value is based. Rather than compromising the definition of fair market value agreed to by agencies that regulate Federal financial institutions, it would seem more appropriate to give weight to the redevelopment plan in arriving at the amount of the public benefit discount to be applied to fair market value under the Pryor Amendment. GSA is also concerned that this same method will be used in establishing the fair market value for sales to the general public under "jobs-centered property disposals." It should be noted that this method for determining fair market value is inconsistent with existing policy and procedures for establishing property values for disposals under the FPA.

On an associated note, especially when dealing with values of the property, the appraisal process should not be undermined. The appraised fair market value is an objective view of value. Professional appraisers are bound by standards to give their opinion of fair market value under

the premise of highest and best use, and the States license and certify them based on this objective method. In doing otherwise, a valuable tool in the process would be lost and no true uniform standards applying to estimates of value would be available.

3. Environmental Restoration

GSA agrees that one of the most difficult obstacles to getting property into productive use is accomplishing environmental restoration prior to property disposal. Therefore, we recognize the need to consider new initiatives that will expedite property disposal. However, several major concerns exist with DOD's proposed rule implementing section 2908 of P.L. 103-160 which would allow future purchasers to perform cleanup operations in lieu of monetary consideration for certain properties.

Determination of environmental remediation costs presents a significant concern. It does not appear that a uniform system exists for determining such costs or provisions for handling adjustments to these costs, which often escalate as remediation progresses. A well-structured system is needed to determine cleanup costs, compensation amounts, and the process by which environmental restoration will be accomplished if this approach is to succeed.

Finally, we are concerned that an adequate system has not been established to monitor environmental restoration activities and ensure compliance with applicable environmental laws and regulations after these conveyances have been accomplished.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gordon S. Creed". The signature is fluid and cursive, with the first name "Gordon" being the most prominent.

GORDON S. CREED
Acting Deputy Commissioner

UNIVERSITY OF CALIFORNIA, SANTA CRUZ

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FORT ORD PROJECT
Multi-Institutional Center for
Science, Technology, Education, and Policy

SANTA CRUZ, CALIFORNIA 95064

August 4, 1994

1115

Mr. Joshua Götthaus
Assistant Secretary of Defense for
Economic Security
3D814, The Pentagon
Washington, DC 20301

RE: Comments on the Interim Rule - Implementing Title - XXIX of the
National Defense Authorization Act for FY '94 - "The Pryor Amendment"

Dear Mr. Götthaus:

This letter provides comment on the above referenced Interim Rule. I submit these comments in my role as Director of Program and Policy for the University of California's (UC) Fort Ord Project, a base reuse effort led by the University of California's Santa Cruz campus, and as the person responsible for leading the UC team during the Fort Ord property conveyance negotiations. The following opinions and statements reflect many hours of personal and institutional commitment and participation in the first job-centered property disposal action undertaken using the above referenced Interim Rule. Though the comments put forth in this letter are mine from the perspective of the University of California, Santa Cruz, the experiences that helped to shape these comments were jointly shared with the California State University system through mutual and parallel conveyance negotiations. This letter is intended to reinforce comments received by your office from both the Fort Ord Reuse Authority (FORA) and from Congressman Farr as well as to expand on issues that, in our experience, are particularly difficult to implement. These comments also include input from our technical consultant Mr. Rodman D. Grimm and are reflected in his written testimony submitted for the public hearing on this Interim Rule to be held on August 5, 1994.

In addition to these brief written comments, I hope that your office will take advantage of the hundreds of man hours that were committed to our conveyance negotiations during the months of June and July. For nearly six weeks in both California and in Washington, DC we worked with teams of real estate professionals and lawyers, both civilian and military, to hammer through the first conveyances by the Department of the Army and the Department of Defense under the Pryor Amendment. At one time we had nearly twenty professionals sequestered away for most of a day working on what, in retrospect, is a relatively straightforward Deed and Memorandum of Agreement. We feel that much of these prolonged negotiations resulted from unclear guidance by the Interim Rule, and apparently conflicting priorities

and goals of the law and the Department of Defense, and, in some cases, inappropriately determined citations in the Rule. We urge you to use our negotiation experience as a guide for modification of the Interim Rule and for subsequent implementation actions.

The comments in this letter will be broken into three sections. First, a policy overview section will provide a summary of the apparent policy conflicts. Second, a specific discussion of some of the sections of the Interim Rule that requires either clearer language or content modification to make the Rule consistent with the law and the President's Plan. Finally, a concluding section to reemphasize the issues determined to be most critical.

POLICY OVERVIEW

The following sections reflect general policy observations and concerns. Each section includes a recommendation for action.

1) Economic Redevelopment v.s. Revenue Production

The most frustrating aspect of the Interim Rule of the Pryor Amendment has been the seemingly inconsistent message it sends with regard to a focus on community reuse and economic redevelopment vs. revenue production for the Department of Defense. Specifically, though the President's Five Point Plan and Public Law 103-160 set the framework for the former, the Interim Rule clearly sets in motion the latter. This revenue incentive, as found for instance in the Interim Rule guidelines for profit sharing, when combined with existing legislation which mandates that revenue be generated from the disposal of Department of Defense property and deposited into the Base Closure Account, puts the members of the Military Service in a conflicting position. Are they to work towards assisting the communities with the best and most expeditious reuse? Or are they to negotiate the terms of the conveyance in a manner that ensures the greatest return to the Department of Defense? If job-centered property disposal is truly the goal, then the Final Rule must direct the appropriate military service to proceed in a manner that works best for the communities.

Recommendation: The intent of the law and the President's Five Point Plan need to be reflected more clearly and strongly in the Implementing Rule. If the purpose of the Law is to truly facilitate economic redevelopment then this priority needs to be stated with clear guidance.

2) Disposal Process v.s. Community Reuse Priorities

The property disposal process responds to requests for property rather than the desired community reuse plan providing guidance for disposal. If the community reuse needs and desires are of paramount concern then they should be the economic redevelopment driver. The Base Closure Community Assistance process, as outlined in the Interim Rule, does not include reference to 'community statement of interest' or 'local redevelopment plans' until after

land has been screened and surplused to the federal government, the Homeless providers, and other public benefit conveyances (i.e. state agencies). Job-centered property disposal appears in the "process summary" as the last option. If the Pryor Amendment method of conveyance was developed in response to the demands and needs of communities across the country how does job-centered property disposal end up as a "last resort" tool? Shouldn't this method of conveyance be made available to the communities at the beginning of the process if it helps to increase the likelihood of the reuse success? Shown on the "process flowchart" in the Interim Rule is the particularly distressing indication that if the land has a "high value" the Department of Defense, sans a successful community appeal, can sell that land without ANY community input if a "valid offer is received". Who determines what a valid offer is? This issue was magnified in the case of the Fort Ord property transfers through early statements by Department of the Army officials as to their estimates of the value of the land, and their intent to sell that land. These comments were subject to questioning as to their basis and effectively served as a barrier to open discussions and interactions throughout the process.

Recommendation: Property conveyance under the "Pryor Amendment" should be made available at or near the beginning of the disposal process. Every effort should be made to integrate Military Service disposal decisions with the community reuse planning process.

3) Who is in charge?

In addition to the lateness of the community input into the reuse property disposal process, an inherent conflict of interest is evident in the continued and substantial influence and control that the Department of Defense has on the success and eventual outcome of the reuse process. This influence includes the approval authority for property conveyance applications made by other Federal Agencies and by State Agencies. With or without a community reuse plan, the Department of Defense has the ability to approve land transfer requests that essentially 'develop the community reuse plan' without community involvement. The significant influence of the Department of Defense over the community reuse effort extends to planning funds. For instance, the initial funding made available to a community reuse effort is controlled by the Department of Defense's Office of Economic Adjustment (OEA); both the amount of funding made available to the community and the approval of the purpose. This initial funding is critical and should be flexible to allow the communities to respond to the crisis of closure. These funds also need to be targeted at more than infrastructure analysis and short term job development. Funding needs to be made available to integrate regional resources into the reuse effort for the purpose of ensuring long-term success and job development. A fixation on expeditions job development may not realistically look at the development of a sustainable economy. As we are finding, though there are dollars available for "retraining of displaced defense workers" the concept of "retraining for what" continues to surface. It is this "for what" part of the equation that needs to be addressed as aggressively as the location and condition of the utility lines. At Fort Ord, the OEA would not agree to fund economic development planning funding as requested by the University of California. These funds were eventually

provided by the Department of Commerce's Office of Economic Development Administration (EDA). It took much effort and determination to have the funds made available for UC's reuse effort. An ironic twist is that the economic assessment of the conceptual reuse plan at Fort Ord, prepared for the United States Army Corps of Engineers by an outside consultant, indicates that the UC proposed reuse effort at Fort Ord will be one of the significant economic engines of the total base reuse; this, despite the initial lack of support from the Department of Defense.

Recommendation: There needs to be increased flexibility in the disposal and reuse process to facilitate successful economic development. The Rule should include language that directs the Military Service to expand approval of funding options and to provide for the most effective and efficient property disposal process.

4) Balanced Negotiations

It became apparent during our conveyance negotiations that communities will find themselves at a serious disadvantage when negotiating with the Department of Defense. The way the Interim Rule has been written each branch of the military can impose its own interpretation and perspective on the process. This split in the management of the process creates confusion and does not facilitate the learning experiences of one Service to be incorporated into the next. In addition, the ability of the Department of Defense to control and direct the planning funds from OEA, creates an inherent conflict of interest when one realizes that to be successful in the property conveyance negotiations one needs information and that the information needed will only be obtained if funded by the OEA. Finally, the negotiations to convey property at Fort Ord to the two universities was a greatly protracted and frustrating process. The University of California and the California State University teams included real estate and environmental attorneys, real estate professionals, and a professional base closure consultant. Even so, we spent long hours working through the detail of the conveyances. Many times it was evident that the Department of the Army was not necessarily negotiating in the interest of successful redevelopment, but rather as they interpreted the Interim Rule to ensure equitable and maximum profit sharing. At one point in the negotiations it was indicated that if the Army gave into one of our specific requests, the University would "win." "Win what?", we asked, thoroughly confused. Didn't we all support the President's initiative? And wasn't it clear that successful redevelopment was the mutual goal? Clearly not.

Recommendation: Our strong recommendation is that in all negotiations between reuse representatives and the Department of Defense, the community or reuse entity be supported by a knowledgeable professional who is well versed in the tradition and potential motivations of the Department of Defense with regard to property conveyances. The negotiating playing field needs to be leveled and without a professional well versed in the issues of conveyance, the community or reuse entity is at a serious disadvantage. We urge this funding be made available from OEA or other similar sources.

INTERIM RULE DISCUSSION

In the case of the property conveyances at Fort Ord to the University of California, the following areas were of particular concern during the protracted conveyance negotiations:

1) Discretion in the Choice of Conveyance Mechanisms

The interim rule, Part 90.4 Policy, (a)(1)(i), states "The use of existing public benefit conveyances should be considered, where appropriate, before the use of a public benefit conveyance for economic development." It is not clear why this statement is so prominently placed in these rules and who should do the "considering." In the case of the University of California's conveyance request, it was determined early on, in part due to economic/budget realities and in part due to the desire to develop public/private partnerships, that a traditional public benefit conveyance was not appropriate or acceptable. Despite this determination, our efforts to use the Pryor Amendment method of conveyance were met with much resistance because of our status as an educational institution. It was clearly stated several times that the "preference" of DoD personnel was that we use a traditional public benefit conveyance method.

Recommendation: Delete reference to the "preference" of using existing public benefit conveyances thereby providing flexibility to rely on the community/user driven perspective on the most appropriate conveyance mechanism to stimulate economic reuse.

2) Definition of a Redevelopment Authority

In the Interim Rule, Part 91.3 Definitions item (g), 'redevelopment authority' is defined as "...as any entity, including an entity established by a State or local government, recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation and for directing implementation of the plan." This language is confusing; it indicates that a redevelopment authority is 'an entity established' thereby implying that it could be any number of entities so established. In the case of Fort Ord, for purposes of property conveyances, there exist three 'redevelopment authorities'. In addition to the Fort Ord Reuse Authority (FORA) each university system (UC and CSU) was named a redevelopment authority for purposes of expediting property conveyance under the Pryor Amendment and to reflect the universities experience and status in the state. The reality is that at least one base, Fort Ord, there are multiple 'redevelopment authorities' for the purpose of conveyance.

Recommendation: Provide the Secretary of Defense with the clear authority to recognize the appropriate 'redevelopment authority or authorities.' In addition, edit the language in the Interim Rule to clearly state, "one or more" redevelopment authorities as so recognized by the Secretary of Defense.

3) Applicability of the Rule to 1988 and 1991 closures

Though there are several places in the Interim Rule language where it is stated that "The provisions of this section may not be appropriate for some of the 1988 and 1991 base closures and realignments, because these bases are so far along in the property disposal process...." the mechanisms for implementing this recognition are not clearly stated. Additionally, if one supports the assumption that each base reuse is unique it is possible that what might be considered exceptions in fact might just be a reflection of uniqueness.

Recommendation: Provide clear discretion and more clear guidance to the appropriate Department of Defense Secretary to exempt 1988 and 1991 closures from portions of the Pryor Amendment as needed and appropriate to be consistent with the law.

4) McKinney Act Screening

The interim Rule attempts to establish a mechanism for the early identification of homeless assistance requirements for land and buildings at closing bases. The intent is to permit communities to develop reuse plans that fully accommodate homeless needs, while permitting early identification of the remaining properties for either quick sales for job creation, federally sponsored public benefit conveyances or conveyances to a local redevelopment authority for economic development purposes. As written, once a McKinney Act screening is complete, if no homeless provider is interested in and qualifies for the property, and if the local redevelopment authority submits a written expression of interest for the property within one year, the property will not undergo any subsequent homeless screenings. In practice this may work for some military installations which were designated for closure in the 1993 round of base closures; and those which will be designated for closure in subsequent rounds. However, a critical problem exists for military installations designated for closure in 1988 and 1991. If a military installation in one of those rounds has gone through the screening process and property conveyance has been scheduled under transfer mechanisms existing prior to the passage of Public Law 103-160, Section 2903, this Interim Rule requirement creates a problem if the local redevelopment authority determines that this newly provided conveyance mechanism is preferable for economic development purposes. A question has been raised concerning whether the property has to undergo an additional McKinney Act screening in order to use Section 2903 as the conveyance mechanism. In practice this is an unrealistic requirement as 1) the property has already been screened under the McKinney Act and no qualifying homeless organizations have expressed an interest, and 2) in all likelihood the intended property use has not changed and the only difference will be conveyance at no cost and without restrictions to foster more rapid economic redevelopment. If an additional McKinney Act screening is required, the redevelopment authority will either have to 1) forego property transfers under 2903, 2) run the risk that new qualifying homeless organizations express interest in and obtain the desired property thereby requiring a 'rethinking' of the developing community reuse plan, or 3) postpone redevelopment implementation until the McKinney Act screening is accomplished; the delay and process potentially having significant impact on the job creation and economic development efforts already underway.

Recommendation: Change the Interim Rule, and the law if necessary, to assure that the additional McKinney Act screenings will not be required if redevelopment authorities of installations designated for closure in 1988 and 1991 desire to change their method of conveyance to a Section 2903 conveyance.

5) The "Market Test" and Fair Market Value

Before offering property at closed bases for job-centered property disposal, the military is instructed in the Interim Rule to determine the fair market value of the land and then seek, through advertisement, expressions of interest from the marketplace for this land. If the military receives good faith and reasonable expressions for interest, and if the military department "decides that an expression of interest received demonstrates the existence of a ready market, the prospect of job creation, and offers consistent with the range of estimated fair market value, it may decide to offer the property for sale.The potential offerers will be encouraged to work with the redevelopment authority so that their development goals will be compatible with the local redevelopment plan. This process is subjective and essentially designates the military department as the community reuse 'driver'. While the communities are developing a reuse plan, the sale of property can potentially redirect that plan or be found in conflict.

Recommendation: The process of determining the fair market value should reflect and be supportive of the reuse plan developed by the communities. Any sales of property should be through the redevelopment authority, not the military department.

6) Profit Sharing

This section covers one of the more time consuming and difficult issues during our conveyance negotiations. The concept of recoupment and net profits, at first glance, seems to be straightforward. However, as this issue was explored extensively during the conveyance negotiations, it became apparent that there were many problems and unanswered questions in the directions provided by this section of the Interim Rule (Section 91.7 Procedures, (f) (2)). For instance, the determination of what is "net profit" is unclear, and in our opinion, inappropriately tied to CFR's more appropriate to procurement transactions than that of economic development. The language of this section contains sufficient ambiguity that we had it interpreted several different ways by the Army and the universities during the negotiations. In addition to clarity with regard to allowability and allocability of costs, there is need to clarify in the Rule the extent of the profit sharing reach. It is our understanding that the profit sharing relationship extends solely to the redevelopment authority in receipt of the initial conveyance from the Government. To pass this relationship on to subsequent owners or lessees would limit or preclude successful economic development of the properties. In our negotiations the extent of this profit sharing relationship was of central concern and, only after many hours, was this provision removed from the covenants section of the Deed. The Rule needs to clearly state that the profit sharing relationship is not intended to 'travel with the land' to subsequent transactions.

• Required Deed Provisions (Section 91.7 Procedures, (f)(4) (iii-v))
In Section 91.7 Procedures, (f)(4) it is seemingly clearly stated that the "...GSA at 41 CFR 101-47.4908 shall be used as a model deed provision to implement this recoupment policy, recognizing that the GSA provision will require tailoring for each parcel." This section goes on then to "require" several changes and additions. The following sections are particularly problematic:

(iii) Straw Transactions

This deed provision is designed to ensure that the receiver of lands (the grantee) does not enter into relationships intended to circumvent the Government's recovery of its net share of profits. In theory this is supportable, but the examples provided (sales or leases to cooperating parties at nominal prices and transactions at other than arm's length) do not provide enough guidance in the case of economic development efforts. For instance, it is entirely possible that the only way a company may enter into a long-term lease on a closed base is if that company has a long history of programmatic relationship with the new owner of that property (i.e. a university) and if the prospective lessee receives X years of nominal or free rent. To fire up the economic engine of a region this company's presence may be critical and desirable on many fronts. It is also likely that similar economic incentives are being offered in other competing regions or states. Should such incentives be considered potential straw transactions? We think not.

Recommendation: The straw transaction language in the Rule should indicate that, for the purposes of economic development, economic incentives such as sales or leases at nominal prices are expected. The Rule should rely on the definition of Straw Transactions as transactions entered into for the purposes of circumventing the Government's recovery of its net share of profits; "intent" would be integral to this understanding.

(iv) Calculations of net profit - Inappropriate CFR's

The Interim Rule states: "(iv) In calculating the amount of any net profit from a sale or lease, the local redevelopment authority may include: (A) Capital costs, as provided in 41 CFR 101-47.4908 (b), (B) Direct and indirect costs related to the particular property and transaction that are otherwise allowable under 48 CFR part 31 including the allocable costs of operation of the local redevelopment authority with regard to that property." This section of the Interim Rule is not clearly presented; the words "may include" were interpreted in inconsistent ways. In our negotiations this section was interpreted by the military department to mean that the CFR citations indicated were the sole binding guidance while the universities believed that the Rule provided for the CFR's to be used for guidance but not constraints. This is particularly important given the fact that the CFR's so cited, in our opinion, are inappropriate for the calculation of net profits. 41 CFR 101-47.4908 (b) deals with allowable capital costs which are delineated in four categories of costs which can be included. This CFR citation is not overly restrictive, but does not include as allowable many of the costs which would need to be included to make a realistic net profit

calculation for an economic development project. On the other hand, 48 CFR Part 31 is not relevant to economic development projects, nor even to real estate transactions. Rather, its intended purpose is to delineate costs which are not allowable for Federal product and services contracts. This CFR specifically disallows many of the costs, such as marketing and advertising, that will be critical for a successful economic development effort. In addition to the inappropriate and inadequate guidance provided for allowability and allocability of costs, other accounting issues for appropriate calculation of net profits need to be determined. For instance, over what accounting cycle (e.g. 1 year, 3 years, 5 years or 15 years) will costs be spread and how is the "project" defined for purposes of determining net profit (e.g. a building or the entire conveyed parcel)?

Recommendation: Neither 48 CFR Part 31 nor 41 CFR 101-47.4908 (b) apply to an economic development effort. They should, therefore, not be used as the basis for delineating allocable and allocable cost for the calculation of net profits. The Department of Defense, in consultation with redevelopment authorities, universities, economic development entities and professionals, and real estate developers should start over and develop more realistic and supportive accounting criteria guidelines with the goal of supporting the economic redevelopment objectives of the President's Five Point Plan.

(v) Notification of sales or leases

As required in the Interim Rule, there is a requirement of "notification to the disposing Military Department of sales or leases." The notice of sales or leases are to be accompanied by an accounting or financial analysis indicating the net profit, if any, from a sale, or the estimated annual profit from a lease. This requirement, combined with the 'straw transaction' provision discussed above led to some interesting questions during our negotiations for property at Fort Ord. Is this notification intended to provide the Government with an opportunity to intervene (as intimated in the straw transaction section of the Interim Rule) in transactions? If so, if a redevelopment authority spends years cultivating a potential business relationship, is it in anyone's best economic interest to provide notification for the possible purpose of stopping the transaction? We thought not, and sought to develop a reporting/notification relationship that was 1) after the transaction, 2) for the purposes of profit sharing calculation only, and 3) provided for subsequent recoupment, with the redevelopment authority being responsible, of any net profits not accurately determined or shared. Additionally, in our negotiations it became distressingly clear that this notification and profit sharing process will require significant time and effort on the parts of both the redevelopment authority and the Department of Defense. We found ourselves wondering, in a time of downsizing, how realistic this was and if the return was worth the investment.

Recommendation: Clarify the intent and procedure for notification. We recommend that notification not be done as each

transaction is brought to closure but rather on a quarterly, yearly or longer basis, but in any case, clearly 1) after the transaction is completed, 2) for the purposes of profit sharing calculation only, not intervention, and 3) allowing for subsequent recoupment, with the redevelopment authority being responsible, of any net profits not accurately determined or shared.

7) Appraisals

The profit sharing relationship between the receiver of property and the Federal Government is established for 15 years unless the appraised/fair market value of the land is recouped by the Government through the profit sharing process in less time. This "post conveyance sale", unless fairly established to encourage economic development through appropriate accounting methods and reporting guidelines, has the very real potential of limiting the economic development for which it is intended. Because the appraised value of the land provides an important revenue sharing guideline, it must truly reflect the intended uses and constraints of the property in question. The Interim Rule provides for this appraisal to be done by the Military Departments, in consultation with the redevelopment authority. In our experience however, this appraisal process was done independently of our involvement, both in determining guiding assumptions and validating factual information i.e. amount of acreage in specific uses or categories of value. Additionally at Fort Ord, the properties being conveyed to the universities are being conveyed without water allocation rights. This separation of resources reflects the University's commitment to a regionally controlled and integrated utility system. However, with out water, it does call into question the assumptions made in the determination of the appraised value.

Recommendation: Appraisals should be done with the full cooperation of the redevelopment authority, including joint determination of appropriate assumptions and parameters. Appraisals should be provided to the redevelopment authorities for properties conveyed under Section 2903 (this was not the case in our conveyance experience). In the case of disagreement over the appraised value or methodology, a second and, perhaps, even a third appraisal should be obtained by the Military Department to facilitate any resolution of discrepancies in value.

CONCLUSION:

The President's Five Point Plan and the Pryor Amendment need to be commended for the opportunity they bring to the communities hard hit by base closure. The new tools being developed through these two efforts, combined with the efforts of the Department of Defense and many others will be critical to the eventual success of reuse efforts across the country. As a nation we are clearly just learning how to 'rewrite' our regional economies in the face of military downsizing. The importance of acknowledging that this is truly a learning experience can not be underestimated. With this recognition comes the inherent need to develop tools and procedures that are flexible and evolving. Through the negotiation experiences of the University of

California, in partnership with the California State University system, we found that the Interim Rule did not, as written, provide sufficient flexibility for the issues we confronted during the conveyance process. The above comments are an attempt to provide some clarity to the areas of the Interim Rule that did not work well.

In addition, there were several other areas of concern during our negotiations that deserve brief mention here. They included: 1) Should infrastructure, that is acknowledged to be a liability in many cases, be transferred with parcels or singularly and intact to a basewide redevelopment authority?; 2) How should the environmental responsibilities of the negotiating parties be clearly stated and, for instance, should indemnification be provided in the case of unexploded ordnance accidents?; and 3) What access to environmental information regarding the installation should be made available to the redevelopment authorities, ie an ordnance report and recommendations developed for the Military Department?

Despite the hundreds of often frustrating hours put into the negotiating process for the property conveyances at Fort Ord, the effort on all fronts should be commended. We, the Department of Defense, the communities and others, are jointly developing a process that will be used for many years. The success of this national effort will depend upon our ability to develop common, non-conflicting goals of reuse. If our national goal is job development and economic redevelopment then let us develop the tools that reflect that position and that will allow us to be successful. And, whatever the process and tools we develop, they must be written to provide flexibility. As we uncover new challenges, the Department of Defense and the communities need to have the flexibility to accommodate the best solution within the rules provided.

In closing, I transmit my sincere thank you to the Department of the Army who, under the leadership of the Assistant Secretary Robert M. Walker (Installations, Logistics, and Environment), spent endless time and effort working with us towards the first successful conveyances under this Interim Rule.

Respectfully submitted,



Lora Lee Martin
Director,
Program and Policy Development
UC - Fort Ord Project

cc: Congressman Sam Farr
Congressman Ron Dellums
William Lowery, Consultant
Assemblywoman Barbara Lee
Director James Gill, UC - Fort Ord Project
Defense Conversion Council, State of California
Director Beth Buchlmann
Consultant Rodman Grimm
Assistant Secretary Robert M. Walker

DASD/ER/BRAC
SUSPENSE SHEET

DATE IN 07/29/94
SUSPENSE DATE 08/10/94
SUSPENSE # 015365
SUBJECT Reuse of Closing Military Base

TO BTO

COMMENTS

~~ACTION~~

PLS RETURN THIS SHEET WITH A COMPLETED COPY OF THE
SUSPENSE TO 3E813

Date Completed: _____ By: _____

United States Senate

WASHINGTON, DC 20510-0904

1116
JUL 27 PM 2:44

OFFICE OF THE
SECRETARY OF DEFENSE

July 5, 1994

The Honorable William Perry
Secretary of Defense
The Pentagon
Room 3E880
Washington, D.C. 20301

Dear Mr. Secretary:

As the community of Orlando, Florida, prepares for the full implementation of the BRAC 1993 decision to consolidate naval training away from the Orlando Naval Training Center, major concerns have arisen regarding the process which will define and lead to reuse.

In particular, the Department's interim final rule, published in the April 6, 1994, Federal Register, appears not to meet the intent of the Pryor Amendment which gives local communities primary say on reuse alternatives. I refer specifically to the "jobs centered property disposal" section, which provides for a six-month advertisement period, DoD review of any offers received during that time, and the opportunity for the Department to take action resulting in the sale of specified property. This provision appears to completely bypass the local reuse effort. I must presume that your intent was certainly not to bypass local authorities, however the specific language used, if allowed to remain, might well increase the likelihood of such problems in the future.

The City of Orlando has provided me draft language which it believes would alleviate these concerns. I am taking the liberty of forwarding it on to you. I appreciate your consideration in this matter, and look forward to hearing from you soon.

Sincerely,



Connie Mack
United States Senator

15365

COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT
FOR FY 1994

TO: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

FR: City of Orlando, Florida

RE: Closure of Naval Training Center Installation, Orlando, Florida

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Column 2

Paragraph (d) - Jobs Centered Property Disposal

Recommended Changes:

§91.7. Paragraph (d) (2) - The Military Departments should identify properties with potential for rapid job creation and begin, as soon as possible, but not later than completion of the new expedited McKinney Act Screening, paragraph (b) of this section, an appraisal or other estimate of the properties' fair market value. This appraisal shall consider the local reuse plan, local zoning and comprehensive plan, the environmental impact statement, required infrastructure upgrades, and other improvements which will be required to the property given its sale on an "as is where is" basis. Such appraisals or estimates should address a range of likely market values taking into account: feasible uses for the property; the uncertainties in property development; and, current market conditions (i.e., recognizing the state of the market after a closure announcement). The preferences of the local government as stated in the reuse plan and local zoning constraints shall also be considered. The appraisal should not be based on the replacement cost of the properties, since they may not be readily adaptable for civilian use. Additionally, the appraisal should not be based on the highest and best use, but the most likely range of uses consistent with local interests. All appraisals shall consider required infrastructure upgrades to assure that the property does not become a burden upon the local taxpayers. The above appraisal may be accomplished for 1988 and 1991 closures if it is determined that it would be beneficial to do so and will not delay the disposal process.

Paragraph (3) - To assist in the appraisal/estimation of fair market value of properties with a potential for rapid job creation, and to determine if interest exists in properties not originally identified for rapid job creation, the Military Departments shall, for 1993 and 1995 closures, advertise for expressions of interest in all or any substantial part of each closing installation. For 1993 and 1995 closures, the Military Departments shall advertise at the completion of the new expedited McKinney Act Screening process (see paragraph (b) of this section). The Military Departments shall consult with the local government prior to placing the advertisements.

Comments on Interim Rule 91.7
Submitted by City of Orlando, Florida
Page 2 of 5

Paragraph (d) - Jobs Centered Property Disposal

The Military Departments may advertise for expressions of interest in all or any substantial part of each closing installation on the 1988 or 1991 closure lists if it is determined that it would be beneficial to do so and will not delay the disposal process.

Paragraph (3) (i) - Advertisements for expressions of interest shall be open for six (6) months. Expressions of Interest received should detail the intended use, the site plan, the jobs estimated to be created, the schedule of development and hiring, and an evaluation of the worth of the land and buildings. In addition, such expressions of interest include compliance with the local reuse plan, compliance with local zoning and comprehensive plans, and note the ability to provide infrastructure improvements which will be required, as well as demonstrate adequate financial ability to go through with the proposed development. Upon receipt of the expressions of interest, the Military Departments will consult with the local redevelopment authority in regards to the expressions of interest. The local redevelopment authority shall have the ability to review and recommend acceptance or denial of any expressions of interest received. Advertisement for expressions of interest will be conducted simultaneously with all other disposal actions and are not an additional step in the disposal process.

Paragraph (3) (ii) - The Military Departments shall analyze each expression of interest and determine within thirty (30) days of receipt if it is made in good faith and represents a reasonable development proposal. In making its analysis, the Military Departments shall consider the recommendation of the local redevelopment authority. After review of the recommendation by the local redevelopment authority, if the Military Departments decide that an expression of interest received demonstrates the existence of a ready market, the prospect of job creation, is consistent with the Base Re-Use Plan, local zoning, adequately addresses required infrastructure improvements, shows adequate financial ability to proceed with the development, and is consistent with the plans of the local redevelopment agency, and offers proceeds consistent with the range of estimated fair market value, it may decide to offer the property for sale. If the local redevelopment authority and the Military Departments (or his designee) do not agree on the proposed sale, the sale decision shall be referred to the Secretary of Defense (or his designee) for decision. The procedure for this review is set forth in paragraph (d) (5). Potential offerors will be required to work with the redevelopment authority so that their development goals will be compatible with the local redevelopment plan.

Paragraph (3) (iii) - (no changes)

Paragraph (4) - After the completion of the initial six (6) month advertisement period, if no offers have been received, the local redevelopment authority may request additional marketing assistance from the Military Departments. If no such request by the local redevelopment authority is made, no additional marketing of properties shall occur.

Comments on Interim Rule 91.7
Submitted by City of Orlando, Florida
Page 3 of 5

Paragraph (d) - Jobs Centered Property Disposal

Paragraph (5) - Pursuant to paragraph (d) (3), the local redevelopment authority has the ability to recommend approval or denial of any offers received. Should the local redevelopment authority, and the Military Departments disagree on whether the proposed sale should occur, the decision to sell shall be referred to the Secretary of Defense for decision. The local redevelopment authority may present its position in writing and may request a meeting with the Secretary of Defense in order to present its position to the Secretary. The Secretary shall consider the position of the local redevelopment authority and make a decision. Such decision shall be announced within sixty (60) days of the date the matter is referred to the Secretary of Defense.

Why: The Job Centered Property Disposal procedures do not appear in the underlying Statutes. It appears that these procedures were developed by the drafters of the rules. It truly appears that the procedures are an attempt to simply make money from those properties which could be marketed.

The Job Centered Property Disposal process appears to violate the sense of Congress and the President in that it fails to actively involve the local community in decisions made with regard to property on Bases which are to be closed. Public Law 103-160, Div. B, Title XXIX, Section 2903 (c), November 30, 1993, 107 Stat. 1915 provides that:

"In order to maximize the local and regional benefit from the reutilization and redevelopment of Military Installations that are closed, or approved for closure, pursuant to the operation of a Base Closure Law, the Secretary of Defense shall consider locally and regionally delineated economic development needs and priorities into the process by which the Secretary disposes of real property and personal property as part of the closure of a Military Installation under a Base Closure Law. In determining such needs and priorities, the Secretary shall take into account the redevelopment plan developed for the Military Installation involved. The Secretary shall insure that the needs of the homeless in the communities affected by the closure of such installations are taken into consideration in the redevelopment plan with respect to such installations."

Comments on Interim Rule 91.7
Submitted by City of Orlando, Florida
Page 4 of 5

Paragraph (d) - Jobs Centered Property Disposal

However, as the interim rules have been published, the redevelopment authority has absolutely no voice in the process until a decision to sell by the Military Department. Never is the local government consulted about responses which have been received as a result of the advertisements, whether such responses fit within the proposed use of the Base as set forth by the local government in the redevelopment plan or whether the proposed use meets the development needs and priorities as set forth by the local government.

Further, providing for local government input only at the end of the process, and only through a formal reconsideration mechanism, adds a completely unnecessary adversarial role between the local government and the Military Department. It truly seems in drafting the interim rules that the drafters have lost sight of the spirit of cooperation which was reiterated so many times by our federal leaders, and are attempting simply to sell off what property may be sold, without consultation to the local government. Even the most basic elements of coordination with the local government appear to be lacking in the sale process, in that there is no consideration of zoning requirements, infrastructure requirements and improvements due to the proposed development.

To add insult to injury, the drafters go further in paragraph 4 of the Job Centered Property Disposal Rule in that even if no expressions of interest are received during the first six (6) month advertisement period, the Military Department may decide to continue to market a few high-value installations for an additional period of time. Again, the local government is removed from the system, and is informed only at the end of the initial six (6) month advertisement period whether any high-value installations will be continued to be marketed at the close of the normal six (6) month period. The local government is not consulted early in the process, and may only object in the form of a request for reconsideration, again placing the local government authority in an unnecessarily adversarial position with the Military Department.

It should also be noted that in paragraph 3 (i), the statement is made that, "Advertisement for expressions of interest will be conducted simultaneously with all other disposal actions and are not an additional step in the disposal process." This statement is erroneous for the following reasons:

1. For 1993 Bases, the six (6) month advertisement period begins at the close of the McKinney Act Screening (paragraph (d) (3)).
2. As now provided in the Regulations (paragraph (b) (7) to (10)), at the close of the McKinney Act Screening, the local redevelopment authority can incorporate the property not claimed by the McKinney Act Screening process into the local redevelopment plan.

Comments on Interim Rule 91.7
Submitted by City of Orlando, Florida
Page 5 of 5

Paragraph (d) - Jobs Centered Property Disposal

3. Since the new six (6) month advertisement period does not begin until the close of the McKinney Act Screening, it adds at least six (6) months to the process and delays the time frame in which the local redevelopment authority can incorporate the property into the local re-use plan.

The suggested changes we have incorporated in paragraph d - Job Centered Property Disposal, attempt to do the following:

1. Involve the local government to a large extent in the initial stages of the advertisement period. This will allow the local government to feel confident that any proposals which may ultimately be accepted by the Military Department will be consistent with zoning regulations, infrastructure requirements, local comprehensive plans, and other normal development requirements. The local government must feel confident that any transfers under the Job Centered Property Disposal procedures will fit in the overall community plan, as well as comply with normal development laws, rules and regulations.
2. Attempt to revise the Job Centered Property Disposal rules to delete the unnecessary adversarial relationship by providing for early consultation and involvement of the local government, and providing for deferral of the sale decision to the Secretary of Defense should the local redevelopment authority and the Military Departments disagree on the sale.
3. Provide that no additional marketing shall occur beyond the initial six (6) month advertisement period unless additional assistance is requested by the local redevelopment authority.

CITY OF ORLANDO
400 South Orange Avenue
Orlando, Florida 32801


Glenda E. Hood, Mayor

DATE: June 23, 1994

HOGAN & HARTSON
L.L.P.

COLUMBIA SQUARE
555 THIRTEENTH STREET NW
WASHINGTON DC 20004-1109
(202) 637-5600

E. TAZEWELL ELLETT
PARTNER
DIRECT DIAL (202) 637-6644

BRUSSELS
LONDON
PARIS
PRAGUE
WARSAW

BALTIMORE, MD
BETHESDA, MD
MCLEAN, VA

August 4, 1994

BY MESSENGER

1117

The Honorable Joshua Gotbaum
Assistant Secretary of Defense for Economic Security
The Pentagon
Room 3D814
Washington, D.C. 20301-8000

Re: Comments on the Interim Final Rule Implementing
Section 2903 of P.L. 103-160

Dear Assistant Secretary Gotbaum:

The City of Adelanto, California ("Adelanto"), by its undersigned counsel, hereby submits the following comments in support of the Department of Defense's interim final rule implementing section 2903 of P.L. 103-160, the Base Closure Communities Assistance Act. Adelanto urges the Department of Defense to retain the interim final rule in its current form insofar as it provides the Military Departments with the authority to sell base-closure property at fair market value where a ready market for such property exists.

I. The City of Adelanto and George Air Force Base

The City of Adelanto is a dynamic, forward-looking community located adjacent to George Air Force Base ("George") in San Bernardino County, California. Since 1988, Adelanto has also been a base-closure community facing an uncertain future because of George's scheduled closure. Determined to meet the challenge of base closure head-on, Adelanto has worked to ensure its future prosperity by developing a practical and innovative plan to acquire and redevelop the base for civil airport use and compatible industrial/commercial development.

Based on a thorough review of previously closed military bases where the use of public funds alone was not adequate to spur economic development, Adelanto determined that in order to create quality, high-wage jobs from the base redevelopment, it would have to attract private development funds. This led Adelanto to create a redevelopment and job creation plan which contemplates the infusion of private investment capital into base redevelopment efforts through a public/private partnership with a Master Developer and its

The Honorable Joshua Gotbaum
August 4, 1994
Page 2

financial partners. This plan provides for the use of both public and private funds, and recognizes that both public and private entities have strengths to offer to the redevelopment process. Adelanto firmly believes that its approach presents the federal government with a unique opportunity to demonstrate the markedly increased effectiveness of utilizing private investment capital in a public/private partnership to facilitate the rapid reuse and redevelopment of former military facilities to generate jobs.

In accordance with its determination regarding the most effective redevelopment strategy for George, Adelanto has proposed to pay fair market value for substantially all of the parcels at George for the purpose of developing this property into a regional commercial airport with related compatible industrial/commercial uses that emphasize high-wage job creation. In this regard, Adelanto, under the authority of the interim final rule, has submitted to the Secretary of the Air Force an expression of interest which outlines Adelanto's plan to acquire and develop George. Adelanto's expression of interest clearly demonstrates the existence of a ready market for George. A copy of Adelanto's expression of interest is attached hereto as Exhibit A.

II. The Interim Final Rule

On July 2, 1993, President Clinton announced a "major new program to speed the economic recovery" of base-closure communities. 59 Fed. Reg. 16123. The primary component of the initiative is "jobs-centered property disposal that puts local economic redevelopment first." *Id.* Subsequently, the National Economic Council ("NEC") created a framework for base disposal which provides that "where a ready market exists, sell properties quickly for public or private development to speed up job creation." The Department of Defense expressly adopted the NEC framework as its policy to guide its implementation of Title XXIX of P.L. 103-160. 32 C.F.R. § 90.4(b)(1), 59 Fed. Reg. 16127; 32 C.F.R. § 91.4 (a), 59 Fed. Reg. 16128.

In accordance with the policy adopted by the NEC and Department of Defense, the interim final rule established a procedure for identifying those base properties for which a ready market exists. A "ready market" is defined as one in which "offers to purchase at or near the estimated range of fair market value from the private sector covering all or most of the installation could be expected within 6 months of advertising the base for public sale." 32 C.F.R. § 91.7(d)(4)(ii), 59 Fed. Reg. 16131.

The first step in identifying a ready market is the solicitation of expressions of interest to purchase the base-closure property for fair market value. Then, the Military Department is required to "analyze each expression of

The Honorable Joshua Gotbaum
August 4, 1994
Page 3

interest and determine within 30 days of receipt if it is made in good faith and represents a reasonable development proposal " 32 C.F.R. § 91.7(d)(3)(ii), 59 Fed. Reg. 16130-31. If the Military Department determines that the "expression of interest received demonstrates the existence of a ready market, the prospect of job creation, and offers proceeds consistent with the range of estimated fair market value, it may decide to offer the property for sale." Id.

If no ready market exists, then the Military Department may make the property available to the local redevelopment authority without initial consideration for economic development. 32 C.F.R. § 90.4(b)(2), 59 Fed. Reg. 16127; 32 C.F.R. § 91.4(b), 59 Fed. Reg. 16128.

III. Transfers for Fair Market Value: A Policy Option That Should be Preserved

Adelanto recognizes that in some, and perhaps most, communities no ready market exists for the base-closure property. Adelanto believes that the rule should recognize that in these communities transfers for no consideration, or at a discounted consideration, are, at least initially, the most effective method to induce economic development. However, in a few communities, such as Adelanto, a ready market does exist and public-private partnerships stand ready to make available significant private investment capital to "jump start" development and job creation. Federal policy should take into account these special situations and recognize that in these communities the transfer of the property at fair market value to a public-private partnership provides the quickest path to rapid redevelopment of the base property and early job creation.

In its current form, the interim final rule provides the Military Departments with the authority to identify these special situations and to transfer base-closure property for fair market value when it is determined that this is the most effective route for rapid economic development and job creation. Adelanto believes that this approach constitutes sound public policy, and that it should be retained in the rule. Adelanto further believes that the rule should continue to articulate a strong federal policy favoring the use of this approach in the few communities where a ready market exists and this approach provides the quickest route to rapid economic development and job creation.

HOGAN & HARTSON L.L.P.

The Honorable Joshua Gotbaum

August 4, 1994

Page 4

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in cursive script, reading "E. Tazewell Ellett". The signature is written in dark ink and is positioned above the printed name.

E. Tazewell Ellett

Counsel for the City of Adelanto

cc: The Honorable Judith Crommie
Ms. Patricia A. Chamberlaine
R. Zaiden Corrado, Esquire



ECONOMIC SECURITY

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
3300 DEFENSE PENTAGON
WASHINGTON, DC 20301-3300



7 6 AUG 1994


MEMORANDUM FOR THE DIRECTORATE FOR FREEDOM OF INFORMATION
(ATTN: Mr. Talbot)

SUBJECT: Additional public comments on the Defense Department's Interim and
Proposed Rule published in the *Federal Register*, April 6, 1994

Last week, we brought you a set of public comments on **Revitalizing Base Closure Communities**. You agreed to arrange for public access to that information.

Attached are additional comments, which should complete the set. We hope to have the transcript from our August 5, 1994 public hearing to you within the next few days.

Please direct questions to myself or Mr. Damon Hemmerdinger of the Base Transition Office. We can be reached on x75743/45.


Helen F. Forbeck
Senior Professional Advisor
DoD Base Transition Office

Enclosure

Public #632
Comment
on
Base Closure





1625 K STREET, N.W., SUITE 725
WASHINGTON, D.C. 20006
HARRISON D. McIVER, III
PROJECT COORDINATOR

(202) 223-1760/FAX (202) 223-1803
HANDSNET ID #0686
INFORMATION HOTLINE
1-800-231-7536

THE NATIONAL ORGANIZATION OF LEGAL SERVICES PROGRAMS

1118 8/11

August 5, 1994

Assistant Secretary of Defense for Economic Security
The Pentagon
Room 3D854
Washington, DC 20301-3300

Re: Comments on Proposed Regulations on
Military Base Closures

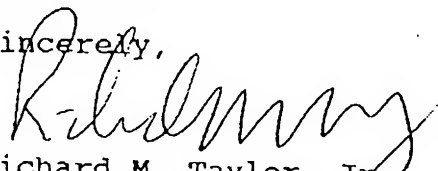
Dear Sir:

The Project Advisory Group, the National Organization of Legal Services Programs, joins in and supports the comments previously submitted by the Legal Services Task Force (Lauren Hallinan, Chair) on July 5.

We emphasize the critical importance of developing and setting forth a definition for "local regulatory authorities" and a criteria for representation by that entity. We are aware that proposed legislation is now pending that would substantially abrogate opportunities for homeless and low income people to receive assistance under Title IV of the McKinney Act. If the amendment is enacted, the issues of who and what is a redevelopment authority becomes all that more crucial. Please do not hesitate to contact me if you have any questions.

Thank you for consideration of these coments.

Sincerely,


Richard M. Taylor, Jr.
Chairperson

RICHARD M. TAYLOR, JR.
Chairperson
Legal Services of North Carolina
Raleigh, North Carolina

ROSIE NEWSOME
Vice-Chairperson
LSP of Northern Indiana
South Bend, Indiana

IRENE C. MORALES
Vice-Chairperson
Inland Counties Legal Services
Riverside, California

DOROTHY REED
Secretary/Treasurer
Legal Aid Society
Charleston, West Virginia



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

MARIO M. CUOMO
GOVERNOR

August 5, 1994

1119
8/11

1119
pass to
4/11/94
T. O'Brien
T.M.

Dear Mr. Gotbaum:

I am writing to provide comments from the State of New York on the interim rule for revitalizing base closure communities that was recently published in the Federal Register.

First, let me state that we fully support the President's Five Part Plan to speed economic recovery at military bases scheduled for closure or realignment. We are concerned, however, that the interim rule may be inconsistent with the Five Part Plan, as well as the underlying statute it is designed to implement.

Our primary concern is with the definition of fair market value. The interim rule calls for the appraised value to be established based on the planned re-use of the site. This is a less accurate reflection of the true value of the base than the actual condition of the site at the time of appraisal. As you know, base facilities and infrastructure often require extensive overhaul and updating. This places a tremendous burden on local communities.

Our second major concern is the delay and bureaucratic obstacles that may be created by the proposed property disposal process. In many instances, the interim rule will establish a process that is more burdensome for communities than current guidelines. For example, the regulations that govern "readily marketable" property allow private enterprises six months to submit written expressions of interest in a site. This will delay the period when the base will become available to the community for economic re-use. Of even greater concern is the Defense Department's proposal that if there is no private interest within the six month period it be allowed to hold on to property with "high value" indefinitely. This is clearly in conflict with the President's Five Part Plan which emphasizes local control over the base re-use process.

Third, the way in which the rule deals with the disposal of personal property could lead to an adversarial relationship between the military and local re-use planners. A list of retained property, agreed to by both the base commander and the local redevelopment authority, should be strictly adhered to in all cases. Substitutions of "equivalent" items should be held to a minimum and should require the approval of the Assistant Secretary.

Other issues of concern to New York State include:

- Environmental cleanup responsibility: There should be provisions for the prompt and thorough cleanup of bases, including future indemnity for new owners.
- Distribution and use of net profits from sale or lease of property: Localities must be guaranteed a fair share of any profits from redevelopment projects. Infrastructure expenditures made by localities should be credited before profits are calculated.
- Minimum standards of maintenance and repair: The military should have clear responsibility to preserve the condition of facilities and land during the transfer period.
- Classification of rural bases: Griffiss Air Force Base, essentially a rural base, has been misclassified because it lies within a metropolitan statistical area. The definition of "rural" should be extended to include communities of less than 50,000 people that do not have strong real estate markets.
- Reversionary clause: The final rule should specify that existing reversionary clauses should be amended to allow conveyance of improved property without recoupment.

In summary, I urge you to revise the interim rule so that it is consistent with the President's theme of job-centered property disposal.

The Honorable Joshua Gotbaum
Page 3

Thank you for your consideration. We look forward to working with your office to promote the speedy reuse of bases scheduled for closure or realignment in New York State.

Sincerely,

A handwritten signature in black ink, reading "Mario M. Cuomo". The signature is written in a cursive style with a long, sweeping underline.

The Honorable Joshua Gotbaum
Assistant Secretary of Defense, Economic Security
Department of Defense
3310 Defense Pentagon
Washington, D.C. 20301



General Services Administration
Federal Supply Service
Washington, DC 20406

Helen

1120
8/11

AUG 05 1994

Mr. Steven Kleiman
Office of the Assistant Secretary of Defense
for Economic Security
Room 3D814
The Pentagon
Washington, DC 20301

Dear Mr. Kleiman:

The purpose of this letter is to provide comments from the Property Management Division of the Federal Supply Service (FSS), General Services Administration (GSA) on the interim final rule issued by the Department of Defense (DOD) to implement the provisions of Title XXIX of Public Law 103-160, the National Defense Authorization Act for Fiscal Year 1994, pertaining to the disposal of property generated by the base realignment and closure process. The interim final rule was published in the Federal Register of April 6, 1994. The original deadline of July 5, 1994, for the submission of comments was extended to August 5, 1994.

Our comments focus on those parts of the interim final rule pertaining to the disposition of personal property which becomes excess to the needs of DOD as a result of the base realignment and closure process. Other program offices in GSA may submit comments to you separately on other aspects of the interim final rule.

As a general comment, we feel it would be appropriate to point out the authority and responsibility which the Congress has assigned to the General Services Administration (GSA) with respect to the disposal of excess and surplus property held by all executive agencies, including DOD. Under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, the Administrator of General Services has the government-wide responsibility to oversee and direct the transfer, donation, and disposal by other means of all such excess and surplus personal property held by executive agencies. When property in the possession of an executive agency is no longer needed for official purposes, it is determined excess and, under the provisions of the Property Act, must be reported or otherwise made available to GSA to be screened for possible use by other Federal agencies. Property for which there is no



Federal use requirement, as determined by the Administrator of General Services, is determined surplus and becomes eligible for transfer by the Administrator to the States for donation to public bodies and certain qualified non-profit activities. Property which is not donated becomes available for sale to the general public by competitive means.

It must be noted that the property disposal authority and function which DOD has through Public Law 103-160 and other base closure legislation complements but does not replace or repeal the disposal authority and responsibility which is assigned to GSA under the Federal Property Act. Under the provisions of the base closure legislation, DOD may transfer excess property resulting from the base closure process to other Federal agencies to avoid new procurements and may transfer property to local redevelopment authorities for economic development purposes. We recognize that Section 2903 of Public Law 103-160 exempts transfers of personal property to local redevelopment authorities under that law from the requirements of the Federal Property Act. However, it does not exempt DOD personal property left over after such transfers from the requirements of the Property Act. Accordingly, any personal property which is not transferred by DOD to Federal and local authorities for those specialized purposes must still be reported to GSA for the broader utilization and donation screening purposes which are required by the Property Act. In effect, the base closure legislation will result in a two-phase disposal process. DOD will carry out the narrowly defined specialized transfers to Federal and local agencies for the purposes specifically outlined in Public Law 103-160. The remaining property will then have to be reported to GSA for the multi-purpose Federal and State screening that is specified in the Property Act. Accordingly, once they have carried out the economic redevelopment actions specified in the base closure legislation and in this interim final rule, DOD officials and base commanders will have to ensure that any personal property remaining at the affected bases is reported to GSA for screening under the Property Act before any sale or other disposal action is taken by DOD.

Before addressing specific points in the interim final rule, we would like to make one other general comment. At many DOD installations that will be closing or realigning, there are items of personal property that are not DOD property and are, therefore, not authorized for transfer to local communities for economic redevelopment purposes or for any other disposal purpose. A specific example would be the many motor vehicles that are assigned to the GSA Interagency Fleet Management System. There are large quantities of these vehicles in use at military installations all over the country. Because they are not DOD property and because GSA still has operational requirements for

them, care will have to be taken to ensure that GSA fleet vehicles are not inadvertently transferred for local redevelopment purposes under the procedures contained in the interim rule.

Having made these general observations, we offer the following comments on specific provisions of the interim final rule:

(NOTE: the page numbers listed are those of the April 6, 1994 issue of the Federal Register and are included for reference purposes).

1. The proposed new 32 CFR 91.3 (see page 16127) contains a list of definitions. The definition of "surplus property" found at Subpart 91.3(I) has an error. It defines such property as any excess property not required for the needs and the discharge of the responsibilities of Federal agencies. It further says, incorrectly, that, "Authority to make this determination, after screening with all Federal Agencies, rests with the Military Departments."

Public Law 103-160, or at least Title XXIX of that law, does not define the term "surplus property" for the purposes of that law. Thus, it would seem necessary to fall back on the definition of the term used in the relevant law governing the disposal of Federal property, i.e., the Federal Property Act. Section 3(g) of the Property Act (40 U.S.C. 472(g)) defines "surplus property" as "any excess property not required for the needs and the discharge of the responsibilities of all Federal agencies, as determined by the Administrator." The Administrator of General Services is in a position to make such a determination because he is also the official charged with the responsibility, under Section 202 of the Property Act (40 U.S.C. 483), for screening excess property of all executive agencies, including DOD, for possible transfer to other Federal agencies. The definition at Subpart 91.3(i) should be changed to correspond with the definition in the Property Act.

2. The language in the proposed new 32 CFR 91.6(a) (see page 16128) is partially incorrect as stated. The language in its present format creates the mistaken impression that the Administrator of General Services has delegated to the Secretary of Defense the authority for the disposal of all excess and surplus property at closing and realigning bases. This is not the case. In fact, the three separate delegations of authority cited in Subpart 91.6(a) deal only with the authority to dispose of "real and related personal property" and not with the authority to dispose of "personal property." As you may be aware, "related personal property" is a narrowly-defined subcategory of personal property that refers to personal property that is an integral part of buildings or other real property,

such as permanent fixtures or plant equipment that is an intrinsic part of a building. It does not refer to most categories of personal property such as vehicles of any type, aircraft, construction equipment, furniture, office equipment, or other common-use items.

GSA's authority, under Sections 202 and 203 of the Federal Property Act, to dispose of excess and surplus personal property held by any executive agency, including DOD, has not been delegated. Accordingly, the language in the first sentence of the proposed Subpart 91.6(a) should be changed so that the phrase "disposal of property" would read "disposal of real and related personal property." Without such a change, the subpart would be misleading. For your information, the term "related personal property" is not defined in the Property Act itself but is defined in the Property Act's implementing regulations, the Federal Property Management Regulations. (See 41 CFR 101-43.001-27 and 41 CFR 101-47.103-13)

3. We take note of the language in the proposed new 32 CFR 91.7(h)(5)(v) (see page 16134) which deals with certain transfers of personal property to other Federal agencies to preclude the necessity to make new procurements. It is our understanding that this is a reference only to those transfers of property which the Secretary of Defense is authorized to make to other Federal agencies under the provisions of Subsections 2902(a) and (b) of Public Law 103-160. It should be understood, as specified in our general comments, that personal property which is not transferred by DOD for those specific purposes or which is not transferred by DOD to local redevelopment authorities for economic development purposes must subsequently be reported to GSA to be screened for possible utilization or donation transfers to Federal and State agencies in accordance with Sections 202 and 203 of the Property Act (40 U.S.C. 483 and 484).

4. With respect to the transfers of personal property to other Federal agencies to preclude the need for new procurements, as discussed in the proposed new 32 CFR 91.7(h)(5)(v) (see page 16134), there is no discussion of the mechanism by which Federal agencies will be notified of the availability of property for such purposes. This information, such as how will the Federal agencies know about the property and what time frames will they have to make an expression of interest in the property, would appear to us to be necessary and relevant information that should be discussed or mentioned in this interim final rule.

5. We take note of the statement, in the proposed new 32 CFR 91.7(h)(6) (see page 16134), that personal property transfers to local redevelopment authorities in support of their redevelopment plans are not subject to Sections 202 and 203 of the Property

Act. That is a correct statement in accordance with the provisions of Subsections 2903(a) and (b) of Public Law 103-160. However, we would again point out that excess and surplus personal property at closing or realigning bases which is not transferred by DOD to local redevelopment authorities, as authorized by Public Law 103-160, must subsequently be reported to GSA for screening under the provisions of Sections 202 and 203 of the Property Act before DOD sells or otherwise disposes of the property.

6. We note the statement, in the proposed new 32 CFR 91.7(h)(8), that personal property not needed by a major command, a Federal agency, or a local redevelopment authority (or a State or local jurisdiction in lieu of a local redevelopment authority) shall be transferred to a Defense Reutilization and Marketing Office (DRMO) for processing in accordance with the Federal Property Act. This would appear to address some of the points we made in our general comments as well as in comments 3 and 5 above. However, it must be understood by the appropriate DOD or DRMO officials that the DRMO or its parent agency, the Defense Reutilization and Marketing Service must report the property to GSA for utilization and donation screening purposes before the DRMO can take action to sell or otherwise dispose of the personal property.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lester D. Gray, Jr.", written in a cursive style.

Lester D. Gray, Jr.

Director

Property Management Division (FBP)

PUEBLO DEPOT ACTIVITY DEVELOPMENT AUTHORITY

1120 COURT STREET, ROOM 200

PUEBLO, COLORADO 81003-2819

PHONE: (719) 583-6100 FAX: (719) 583-6376

August 3, 1994

1121
8/11

Office of Assistant Secretary of Defense
for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

Re: Comments on the Interim Rule--Implementing Title XXIX of the National
Defense Authorization Act for FY 94

Dear Assistant Secretary of Defense for Economic Security:

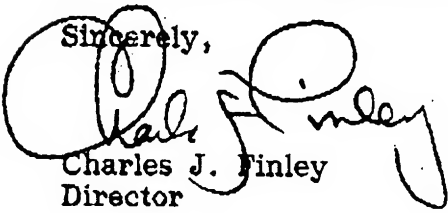
Please accept the following general comments and several specific comments.

Substantial progress has been made since 1988 in the written rules regarding revitalizing base closure communities and community assistance; however, the transference of these rules into practice is lagging far far behind.

It is our view, based on the experience with the Pueblo Depot Activity (PUDA), that the U.S. Army has made insufficient commitment to base reuse. Until the U.S. Army understands it must be a cooperative partner, then all the lofty and well crafted language will be for naught. We are forced to expend our precious few resources, not on reuse and revitalization, but on fighting decades old animosities and bureaucratic turf battles within the Army. If there is a single word to describe Pueblo's experience with the reuse and revitalization process since 1988 it is FRUSTRATION.

If you have any questions, please do not hesitate to contact me.

Sincerely,


Charles J. Finley
Director

CJF/la

Enclosure

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Pueblo Depot Activity Development Authority
(Activity/Location/Community/Installation/Group)

Page _____ 90.4 (e)(3)

Column _____

Paragraph _____

Recommended Changes: Define "substantial realignment" as being a loss or projected loss of 100 or more employees, excess of 25% or more of the base's acreage or buildings, or a significant economic or environmental impact on the community.

Why: PUDA needs a full-time base transition coordinator and was guaranteed one by then-Colonel John "Gil" Meyer in August, 1993. Todate, the BRAC office refuses to recognize PUDA as a substantial realignment, even though the realignment results in the loss of 100's of jobs, and will make 15,000+ acres and over 1,000 buildings available for reuse. PUDA's realignment dwarfs most base closures, but BRAC still refuses to provi a full-time BTC.

Name: Charles J. Finley

Address: Pueblo Depot Activity Development Authority
1120 Court Street, Room 200
Pueblo, Colorado 81003-2819

Phone: 719/583-6100

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule
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Washington, DC 20301-3300

From: Pueblo Depot Activity Development Authority
(Activity/Location/Community/Installation/Group)

Page _____ 90.4 (a)(3)
Column _____
Paragraph _____

Recommended Changes: Add (iv) which provides the BTC shall be selected in consultation with the community and/or local redevelopment authority, and shall be acceptable to same.

Why: The BTC position is structured to be the single most important link between the local community/authority, State, base, and DoD. If the BTC is not prepared to accept the responsibility of the position, the community/authority has no effective coordination or communication link. Then Colonel John "Gil" Meyer promised the attendees at the NAID conference in August, 1993 that the communities would be consulted as to who would be the BTC, and no one would be "forced down the (communities) throat." The PUDA Development Authority is now being told by the BRAC office that the local authority has no role in determining who is the BTC.

Name: Charles J. Finley
Address: Pueblo Depot Activity Development Authority
1120 Court Street, Room 200
Pueblo, Colorado 81003-2819
Phone: 719/583-6100

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From: Pueblo Depot Activity Development Authority
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Page _____ 91.6 (b)
Column _____
Paragraph _____

Recommended Changes: Require delegation of authority to approve interim leases to major commands and/or base commanders.

Why: Even the simplest interim lease with the Army requires an excessive and burdensome approval process. The President's 5-Point Plan for promoting job-centered property development, Deutch's July 15, 1993 memo and Perry's September 9, 1993 memo all directed approval of interim leases be delegated downward, especially to the base commander. The PUDA Development Authority has been requesting this be done at PUDA for many months, but no Army "layer" of command appears willing to give up its "turf".

Name: Charles J. Finley
Address: Pueblo Depot Activity Development Authority
1120 Court Street, Room 200
Pueblo, Colorado 81003-2819
Phone: 719/583-6100

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From: Pueblo Depot Activity Development Authority
(Activity/Location/Community/Installation/Group)

Page _____ 91.7 (a)(2) through (7) and
Column _____ 92.7 (h)(2) through (7)
Paragraph _____

Recommended Changes: Provision should be made to give the local redevelopment authority standing to enforce these rules. Enforcement should be attempted through DoD first, but the Federal Courts should be available to the Authority. The Authority should be able to recapture attorney fees and other legal expenses resulting from the litigation.

Why: Local authorities should not be burdened with enforcing these rules, but when the Army blatantly disregards the law and DoD refuses to take action, then the Authority must be empowered to enforce the rules.

Name: Charles J. Finley
Address: Pueblo Depot Activity Development Authority
1120 Court Street, Room 200
Pueblo, Colorado 81003-2819
Phone: 719/583-6100

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(Activity/Location/Community/Installation/Group)

Page _____ 91.7 (a)(3)

Column _____

Paragraph _____

Recommended Changes: Change "should" to "shall".

Why: If not required to seek local development authority input, the Army has the discretion to eliminate the Authority from the process.

Name: Charles J. Finley
Address: Pueblo Depot Activity Development Authority
1120 Court Street, Room 200
Pueblo, Colorado 81003-2819
Phone: 719/583-6100

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Page _____ 91.7 (b)(1)
Column _____
Paragraph _____

Recommended Changes: Provide that McKinney screening is not required prior to non-Federal interim leases being allowed.

Why: PUDA has not undergone the real property screening even though it is a BRAC 88 base. We have been told the screening process has been held up, awaiting a determination of what real property is needed to support the CHEMDEMIL program. We have no excess or surplus property declared at this time to initiate the screening on. The U.S. Army Corps of Engineers advises the Authority that because PUDA is "underutilized property", the McKinney screening must be completed before any non-Federal interim leases of property will be permitted.

Name: Charles J. Finley
Address: Pueblo Depot Activity Development Authority
1120 Court Street, Room 200
Pueblo, Colorado 81003-2819
Phone: 719/583-6100

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From: Pueblo Depot Activity Development Authority
(Activity/Location/Community/Installation/Group)

Page _____ 91.7 (g)
Column _____
Paragraph _____

Recommended Changes: Provide that in a multi-tenant or less the whole occupancy lease situation the cost equivalent of insurance shall: (1) be part of the lease cost, even if the Army is self-insured, (2) be prorated to only that portion of the building being leased, and (3) be based on the current value of the building, not its replacement cost. When an entire building is leased to a single tenant, then the tenant should be given the option of paying the cost-equivalent of insurance as part of the lease cost or securing independent insurance coverage acceptable to the Army.

Why: The insurance requirements have held up a simple lease for over 2 weeks, with no resolution assured. The facts are a potential lessee desire 11% (10,000 sq. ft.) of a warehouse. The Corps of Engineers initially demanded insurance coverage over the entire building. Even if the lessee was willing to insure the entire building, it is difficult, if not impossible, to purchase insurance on property you do not control (e.g., the 89% balance of the warehouse). Additionally, the lessee was to be charged the fair market value for the space--a price which already contains the insurance coverage in the private sector in a multi-tenant or less than whole occupancy.

Name: Charles J. Finley
Address: Pueblo Depot Activity Development Authority
1120 Court Street, Room 200
Pueblo, Colorado 81003-2819
Phone: 719/583-6100

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

HOMEbase

The Center for Common Concerns

Via Mail and FAX

Office of the Assistant Secretary of Defense for Economic Security

Room 3D 854, The Pentagon

Washington, D.C. 20301

FAX: (703) 695-1493

RE: Comments on the Department of Defense's interim final rule that implements Title XXIX of the National Defense Authorization Act for Fiscal Year 1994, (the "Pryor Amendment" regulations)

To whom it may concern:

Homebase is a public interest law and social policy center on homelessness. The organization's primary work is in providing technical assistance, and advice and counsel to homeless providers in order to improve their level of service. HomeBase is currently the consultant to the housing committee of the East Bay Conversion and Reinvestment Commission. We have been working closely with homeless groups who are applying for property on the closing military bases through the McKinney Title V application process.

Based on our extensive research on the McKinney Title V base conversion process, we recommend that the following changes should be made to the interim regulations.

- Add to end of Section 91.7(b)(5) the Title V provision for appealing unsuitability determinations.

Title V of the McKinney act provides that property which HUD has identified as unsuitable for use to assist to the homeless "not be available for any other purpose for 20 days after the determination of unsuitability to allow for review of the determination at the request of the representative of the homeless". (42 USC § 11411(d)(3)) The corresponding regulations require HUD to notify the landholding agency that a request to review an unsuitability determination has been made, and advise the agency that it should refrain from initiating disposal procedures until the review has been completed. (See 45 CFR § 12a.4(f)(4))

This provision should remain in the interim regulations so that it appropriately tracks the HUD regulations for appealing unsuitability determinations. (45 CFR § 12a.4(f)) Thusfar, HUD has continued to follow this process, and refer to it each time publishes property available for homeless uses in the Federal Register. The administrative appeals process is necessary in instances where HUD has improperly applied its suitability criteria, or relied on incorrect or incomplete information in making its determinations. For example, a property might be declared unsuitable if it thought to be located in a floodway, when in fact the property is located in a

homeless 413 (501) 61 P. 65
floodplain, but not in a floodway. Moreover, in making unsuitability determinations based on excessive deterioration, HUD overlooks the fact that deteriorated buildings can be torn down, and new buildings constructed on the suitable land underneath. The HUD process for determining suitability and publishing properties must continue to include the administrative appeal process to resolve these kinds of problems.

- ▶ Amend Section 91.7(b)(10) to specify that representatives of the homeless can enter into interim leases.

Section 91.7(b)(10) states that "surplus property may be available to any entity... as deemed appropriate by the Military Department concerned". Homeless groups should be specifically mentioned in this section as one of the entities that can enter into interim leases in order to ensure that vacated base property is being put to good use, and not laying vacant and deteriorating before final plans and uses are in place.

- ▶ Amend Section 91.7(h) to give homeless groups priority over the local redevelopment authority in receiving personal property.

The interim regulations allow the local redevelopment authority to identify personal property it wishes to retain in its redevelopment plan before homeless groups can request it. (See § 91.7(h)(1)) The justification given for this is that personal property on the bases is often useful to the redevelopment of the real property. However, the Pryor Amendment includes the Title V priority for homeless providers to receive property and buildings needed to establish their programs. Personal property will obviously be useful to homeless providers in the development of their programs. Therefore, homeless providers should be given the same priority for personal property on the bases as they are given for real property.

Homeless groups have fewer resources than the community as a whole to successfully redevelop this property. Title V is an explicit recognition by Congress that homeless groups lack resources in the local communities where they operate. The Title V priority scheme was put in place to try to remedy this problem. To undo this priority scheme by giving local redevelopment authorities first choice over surplus personal property on the bases undermines the purpose of Title V and the intent of incorporating it into the Pryor Amendment.

The Title V process as it applies to base conversion must continue to provide meaningful opportunities for homeless people in affected communities so that they in turn can resume productive roles in these communities. To this end, the interim regulations should not do anything to undermine the essential mechanisms of Title V.

If you have any questions regarding the above comments, please contact Robin Miller at (415) 788-7961 ext. 11.

Very Truly Yours,
HOMEBASE

Robin E. Miller (LFD)

Robin E. Miller
Senior Staff Attorney

HOMEbase

The Center for Common Concerns

Via Mail and FAX

Office of the Assistant Secretary of Defense for Economic Security

Room 3D 854, The Pentagon

Washington, D.C. 20301

FAX: (703) 695-1493

122-
8/11/94

RE: Comments on the Department of Defense's interim final rule that implements Title XXIX of the National Defense Authorization Act for Fiscal Year 1994, (the "Pryor Amendment" regulations)

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Based on our extensive research on the McKinney Title V base conversion process, we recommend that the following changes should be made to the interim regulations.

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This provision should remain in the interim regulations so that it appropriately tracks the HUD regulations for appealing unsuitability determinations. (45 CFR § 12a.4(f)) Thusfar, HUD has continued to follow this process, and refer to it each time publishes property available for homeless uses in the Federal Register. The administrative appeals process is necessary in instances where HUD has improperly applied its suitability criteria, or relied on incorrect or incomplete information in making its determinations. For example, a property might be declared unsuitable if it thought to be located in a floodway, when in fact the property is located in a

homebase 413 (801) 981 P. 03
floodplain, but not in a floodway. Moreover, in making unsuitability determinations based on excessive deterioration, HUD overlooks the fact that deteriorated buildings can be torn down, and new buildings constructed on the suitable land underneath. The HUD process for determining suitability and publishing properties must continue to include the administrative appeal process to resolve these kinds of problems.

- Amend Section 91.7(b)(10) to specify that representatives of the homeless can enter into interim leases.

Section 91.7(b)(10) states that "surplus property may be available to any entity... as deemed appropriate by the Military Department concerned". Homeless groups should be specifically mentioned in this section as one of the entities that can enter into interim leases in order to ensure that vacated base property is being put to good use, and not laying vacant and deteriorating before final plans and uses are in place.

- Amend Section 91.7(h) to give homeless groups priority over the local redevelopment authority in receiving personal property.

The interim regulations allow the local redevelopment authority to identify personal property it wishes to retain in its redevelopment plan before homeless groups can request it. (See § 91.7(h)(1)) The justification given for this is that personal property on the bases is often useful to the redevelopment of the real property. However, the Pryor Amendment includes the Title V priority for homeless providers to receive property and buildings needed to establish their programs. Personal property will obviously be useful to homeless providers in the development of their programs. Therefore, homeless providers should be given the same priority for personal property on the bases as they are given for real property.

Homeless groups have fewer resources than the community as a whole to successfully redevelop this property. Title V is an explicit recognition by Congress that homeless groups lack resources in the local communities where they operate. The Title V priority scheme was put in place to try to remedy this problem. To undo this priority scheme by giving local redevelopment authorities first choice over surplus personal property on the bases undermines the purpose of Title V and the intent of incorporating it into the Pryor Amendment.

The Title V process as it applies to base conversion must continue to provide meaningful opportunities for homeless people in affected communities so that they in turn can resume productive roles in these communities. To this end, the interim regulations should not do anything to undermine the essential mechanisms of Title V.

If you have any questions regarding the above comments, please contact Robin Miller at (415) 788-7961 ext. 11.

Very Truly Yours,
HOMEBASE

Robin E. Miller (CFA)

Robin E. Miller
Senior Staff Attorney



National Association of Installation Developers

Jane English
President

1123

August 5, 1994

Mr. Robert E. Bayer
Deputy Assistant Secretary of Defense
(Base Realignments & Closures)
Office of the Secretary of Defense
Washington, D.C. 20301

Dear Bob:

Attached are the initial NAID comments on the Interim Final Rules which are awaiting revision. A fully edited edition will be hand-carried to Steve Kleiman on Monday, August 8th.

We appreciate your patience. The comment process is as paper-consuming for the proponents as it is for the DoD reviewers.

Sincerely,

Jane English
President

placed
w/ behind
his page.

Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: NAID
(Activity/Location/Community/Installation/Group)

Page 16127
Column 2 and 3
Paragraph 91.3 (b)

Recommended Changes:

Expand the definition of closure. Expand the definition of closure to allow for the continuation of specific military missions at a location, such as Privatization-In-Place at Newark AFB.

Why:

To recognize that DoD will be attempting to continue some few military activities on a contracture of basic where cost-effective.

Name: NAID
Address: 1725 Duke Street
Suite 630
Alexandria, Virginia 22314
Phone: 703-836-7973

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

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From: NAID
 (Activity/Location/Community/Installation/Group)

Page 16127
Column 3
Paragraph 91.3 (c)

Recommended Changes:

Definition of consultation should be changed to the following:

Fully explaining and discussing an issue and carefully considering objections, modifications and alternatives to ensure that a proposed action is compatible with the local reuse plan.

Note: Underlined text indicates the proposed change.

Any subsequent references to consultation should refer back to this revised definition.

Why:

To ensure that consultation is legitimate and not just a token effort. This proposed definition would make redevelopment a true partnership between the Military Department and the community.

Name: NAID
Address: 1725 Duke Street
 Suite 630
 Alexandria, Virginia 22314
Phone: 703-836-7973

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From: NAID
 (Activity/Location/Community/Installation/Group)

Page 16127
Column 3
Paragraph 91.3 (g)

Recommended Changes:

In the definition for Redevelopment Authority, add the following:

Typical redevelopment authorities in the economic development and community development profession include: economic development authorities, airport authorities, housing authorities, state and local port authorities, and publicly-owned non-profit economic development corporations organized under Section 501 (c)(3) of the Internal Revenue Code. A redevelopment authority may also include university research entities. The Secretary of Defense shall base his recognition decision for the development authority organization on the recommended organization or organizations in the approved community base reuse plan. In the event that a consensus organizational agreement cannot be reached in time for the publication of the base reuse plan or a reasonable time thereafter, the Secretary may select the organizational option recommended by the State Government.

Why:

This addition identification of the normal types of economic development organizations is intended to address the differing interpretations among the Military Departments. The Navy has already sold the Chase Field NAS family housing to the Beeville-Bee County Economic Development Corporation, a Section 501 (c)(3) non-profit publicly-owned corporation. The Army has initially declined to work with a similar non-profit corporation at Pueblo and the Air Force has indicated for a time that it could not work with a joint Denver-Aurora non-profit corporation to purchase Lowry AFB. Moreover, the community may identify more than one redevelopment authority for different parts of the base in the case of the three pending section 2903 transfers at Fort Ord to the Ford Ord Reuse Authority, California State University at Monterey Bay, and the University of California at Santa Cruz.

Name: NAID
Address: 1725 Duke Street
 Suite 630
 Alexandria, Virginia 22314
Phone: 703-836-7973

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From: NAID
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Page 16127
Column 2
Paragraph 91.3 (h)

Recommended Changes:

The definition of rural areas should be refined to include jurisdictions (1) within on MSA that are officially designated on reuse by another Federal agency or (2) with less than 50,000 persons within 10 miles of the base which do not have strong real estate markets – irrespective of whether they are located in Metropolitan Statistical Areas.

Why:

Many Metropolitan Statistical Areas are "over-bounded," and sometimes include outlying counties that are largely rural in character and often lack economic recovery opportunities; e.g., the rural Tooele Army Depot is located in the Salt Lake City MSA.

Name: NAID
Address: 1725 Duke Street
 Suite 630
 Alexandria, Virginia 22314
Phone: 703-836-7973

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Page 16127
Column 3
Paragraph 91.3

Recommended Changes:

There is a critical need for a common definition for "Fair Market Value" to cover consistently both "ready market" property sales and "economic development conveyance property." The definition for fair market value as in subparagraph (k) should include at least:

"Fair Market Value is the most probable price that a property should bring in its current 'as-is, where-is' condition, based on current local zoning and its planned reuse (adjusted for the offsetting cost of public infrastructure to support the planned reuse) in a competitive and open market under all conditions requisite to a fair sale with the buyer and seller each acting prudently and knowledgeably, assuming the price is not affected by undue stimulus. The effect of the base closure on the market shall be taken into account in estimating fair market value."

Why:

Name: NAID
Address: 1725 Duke Street
 Suite 630
 Alexandria, Virginia 22314
Phone: 703-836-7973

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Page 16127

Column 3

Paragraph 91.3

Recommended Changes:

Add a new subparagraph for a definition for "any substantial part of each closing installation" that is found on Page 16130 in Paragraph d (3) of the third column:

"() Substantial part. A 'substantial part' of a closing installation shall be interpreted to be seventy-five percent or more of the acreage of the closing installation and shall include contiguous parcels or blocks of land and facilities. Such blocks of land will not be considered appropriate if they isolate the remaining parcels or render them economically or physically undevelopable."

Why:

The sale of prime parcels to private interests could leave the local redevelopment authority with difficult or impossible to develop remnants at the installation. These remnants could become liabilities for both DoD and the local community. To safeguard against this, any private purchase should be required to take all or substantially all (at least 75%) of the facility and should not be allowed to create a developmental hardship on the remaining parcels.

Name: NAID
Address: 1725 Duke Street
 Suite 630
 Alexandria, Virginia 22314
Phone: 703-836-7973

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From: NAID
(Activity/Location/Community/Installation/Group)

Page 16128
Column 1
Paragraph 91.7 (a) (3)

Recommended Changes:

"Transfer of real property at closing bases between any Military Department or retention of real property at a closing base by a Military Department must be approved by the Assistant Secretary of Defense for Economic Security, unless the transfer has already been approved by the Secretary of the Military Department concerned prior to April 6, 1994."

Why:

It must be very clear that the retention of small military parcels in the middle of a community reuse plan must always be referred to the ASD (ES) for approval. There are case examples where the retention of DoD enclaves imperils the economic feasibility of the community reuse plan. In other instances (e.g., an Army Reserve request at Williams AFB), military requests have been received after the community reuse plan has been completed. It is important for the Military Departments to recognize that "what is closed is closed," unless a mutually agreeable property solution is worked out with the affected community reuse planning committee.

Name: NAID
Address: 1725 Duke Street
Suite 630
Alexandria, Virginia 22314
Phone: 703-836-7973

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Page 16128
Column 1
Paragraph 91.4 (b)

Recommended Changes:

REVISE TO READ AS FOLLOWS:

"Making property available without initial consideration for economic development in order to provide for economic recovery and job creation."

Why:

Title XXIX makes no reference to "ready markets" or quick sales of property for public or private development outside the standard federal property disposal process or the new conveyances enacted by the Pryor Amendment.

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Address: 1725 Duke Street
Suite 630
Alexandria, Virginia 22314
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From: NAID
 (Activity/Location/Community/Installation/Group)

Page 16128
Column 1
Paragraph 91.5 (c)

Recommended Changes:

The Military Departments shall secure the approval of the Assistant Secretary of Defense for Economic Security and the DoD General Counsel for any Military Department legal opinion questioning a decision or jurisdiction by the Base Closure and Realignment Commission.

Why:

This new paragraph is needed to correct an internal Department of the Army effort to question the final decision of the Base Closure & Realignment Commission in four cases through operating-level staff legal opinions; these opinions have frustrated community efforts to secure reuse of the closed property without being official Department of the Army positions.

Name: NAID
Address: 1725 Duke Street
 Suite 630
 Alexandria, Virginia 22314
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From: NAID
(Activity/Location/Community/Installation/Group)

Page 16128
Column 2 and 3
Paragraph 91.7 (a) (4) and (7)

Recommended Changes:

CHANGE paragraphs to read as follows:

"(4) ...(i) By September 1, 1994 for 1988, 1991, and 1993 closures and realignments unless..."

"(7) ...All requests must be made in writing and made before September 1, 1994 for 1988, 1991 and 1993 closures and realignments and..."

Why:

For 1988, 1991, and 1993 base closures and realignments, a special extension should be permitted to the written request to delay declaration of surplus property to September 1, 1994. The regulations were issued and workshops on the regulations were held later than anticipated. Many communities did not understand the significance of the surplus declaration date in time to transmit requests for delay by June 1, 1994. A special exception should be granted to permit consideration of this option by all base redevelopment authorities.

Name: NAID
Address: 1725 Duke Street
Suite 630
Alexandria, Virginia 22314
Phone: 703-836-7973

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Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: NAID
(Activity/Location/Community/Installation/Group)

Page 16128 Real Property Screening
Column 3
Paragraph 91.7 (a) (5)

Recommended Changes:

The section on transfer of property to other Federal Agencies should be changed to give additional weight to the community's reuse plan. The proposed rewording is as follows:

Decisions on the transfer of property to other Federal Agencies shall be made by the Military Department concerned **when such a transfer is supported by the local reuse plan. If a proposed transfer conflicts with the local reuse plan, the Assistant Secretary of Defense (Economic Security) should make the final transfer decision.**

Note: Bold text indicates the proposed change.

Why:

As currently written, this section only provides for consultation with the local redevelopment authority. After consultation, the Military Department could still transfer property to Federal Agencies for uses that were incompatible with the reuse plan.

Name: NAID
Address: 1725 Duke Street
Suite 630
Alexandria, Virginia 22314
Phone: 703-836-7973

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Page 16128
Column 1
Paragraph 91.7 (a)

Recommended Changes:

An additional element in subparagraph (9) should call for the affected community to be advised by the Military Department when the base structures are located on public domain land.

Why:

There are a few cases (e.g. portions of Williams AFB) where DoD facilities were located on public domain lands, which normally revert to the Department of the Interior. In these few instances, it will be important for the community, DoD and Interior to find a workable solution to the public domain issue.

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Address: 1725 Duke Street
 Suite 630
 Alexandria, Virginia 22314
Phone: 703-836-7973

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Page 16129
Column 1
Paragraph 91.7 (b)

Recommended Changes:

The Interim Rules presume that the Secretary of Defense does not have any discretion to reject McKinney Act proposals that impair the overall property reuse. NAID is very supportive of the McKinney Act amendments currently pending in H.R. 3838. The NAID members also believe that DoD should have discretionary authority and we propose to seek legislative authority on behalf of the Secretary of Defense in the event that the H.R. 3838 amendment (Section 861) is not successful.

Why: _____

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 Suite 630
 Alexandria, Virginia 22314
Phone: 703-836-7973

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Page 16130
Column 1
Paragraph 21.7 (b) (11)

Recommended Changes:

CHANGE the paragraph as follows:

" If the local redevelopment authority does not express in writing its interest in incorporating the property as an element in its comprehensive community base reuse plan..."

Why:

Previous references (paragraphs 7 and 9) state that the redevelopment authority needs only to express interest in incorporating the property into its reuse plan to exempt it from further McKinney Act screening. This paragraph implies a much higher standard – characterization of specific properties. It might be concluded that this would require itemization of building numbers or descriptions of precise properties and uses. A more general description of areas to be excluded from McKinney Act review because of incompatibility of planned uses with homeless assistance should be the standard for exemption from further screening.

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 Suite 630
 Alexandria, Virginia 22314
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Page 16130
Column 2
Paragraph 91.7 (b)

Recommended Changes:

ADD on new subparagraph as follows:

"In those cases where a redevelopment authority is managing an entire base reuse project that includes McKinney Act uses on the former base, the property transfer document to the Department of Health and Human Services shall specify that at such time as the property is no longer used by any McKinney Act purposes over the next fifteen years the property shall revert to the affected Military Department. The Military Department then may either transfer the property to the redevelopment authority or may report the property as surplus to the General Services Administration."

Why:

McKinney Act housing may occupy a small central parcel on the former base with significant future redevelopment potential. With the cooperation of the McKinney Act provider, it may be necessary to relocate or "buy-out" McKinney Act housing over the 15-year redevelopment period. Without this recommended change, the surplus housing will revert to GSA for disposal under the 1949 Federal Property & Administrative Services Act rather than the current Pryor Amendment disposal authority in the 1994 Defense Authorization Act. Without this change, it may not be possible to secure a maximum sales value return to DoD when small internal McKinney Act properties otherwise encumber a site made valuable by the community's redevelopment efforts.

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Suite 630
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Page 16130
Column 2
Paragraph 91.7 (c) (1)

Recommended Changes:

In the discussion of the Local Redevelopment Plan, the word "generally" should be dropped and word "wherever possible" should be substituted therein.

Why:

The Military Department disposal agents should not be in the role of selecting what portions of the community base reuse plan they wish to follow. The President's guidance calls for the community base reuse plan to be the preferred alternative in the EIS.

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 Alexandria, Virginia 22314
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Page 16130
Column 2
Paragraph 91.7 (d)

Recommended Changes:

NAID members believe this entire section on "Jobs Centered Property Disposal" will place DoD and the impacted communities in a direct adversarial position. In particular, the requirement in Subparagraph (d) (3) for the Military Departments -- on all 1993 and 1995 closure actions -- to "advertise for expressions of interest (to the private sector) in all or a substantial part of each closing installation" will be highly counter-productive and should be deleted.

Why:

The Military Department disposal agents will be spending their time and resources advertising and appraising a broad range of properties (e.g. Mare Island Shipyard, Tooele Army Depot, Griffiss AFB, and Fort Wingate, among others) that have little possibility of a "ready market." It is important to recognize that the Military Department disposal agencies have only a finite amount of time and resources available. The marketing/appraising time under the DoD interim final rules should be limited to only the few high-value base closure properties. The resulting marketing/appraisal time savings can be used more efficiently, for instance, to expedite interim use leases that actually result in new jobs for the impacted community. Moreover as explained to Secretary Gotbaum and the DoD representatives on June 25th, this entire section conflicts with local and state economic development efforts to market and the surplus property to the private section. This section will actually delay the creation - retention of 1,500 jobs in Philadelphia and other transfer of Chase Field Naval Air Station with 2,000 new jobs in Beeville, Texas by upwards of six months. The rule, in summary, seriously impairs job creation.

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Suite 630
Alexandria, Virginia 22314
Phone: 703-836-7973

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Page 16130
Column 3
Paragraph 91.7 (d)

Recommended Changes:

In summary, this section on a "Jobs-Centered Property Disposal Process" should be rewritten to encourage the Military Departments, in cooperation with the impacted community, to seek an early opportunity to test the market for those few readily marketable properties once: (1) the facility and environmental conditions at the base are known; (2) the community has completed its base reuse plan; (3) the community has identified the likely required public infrastructure for the property; and (4) the local jurisdiction has indicated the likely local land use zoning the property will receive.

Why:

As requested by Assistant Secretary Gotbaum in June 25, attached in a recommended alternative approach by which DoD and the Military Departments would work cooperatively with the impacted communities in identifying high value properties and in encouraging early community job creation – consistent with the approached community base reuse plan.

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 Alexandria, Virginia 22314
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Page 16130
Column 3
Paragraph 91.7 (d) (3)

Recommended Changes:

Again, delete the entire section on "Jobs Centered Property Disposal."

In subparagraph (d) (3), DoD must recognize that any private individual will be able to delay the community's planning and interim use process by offering a private use that conflicts with the community base reuse plan. In some cases, the private proposal may offer limited technical or financial feasibility. The interim final rules call for the Military Departments to analyze each expression of interest within 30 days. However, the likely reality is that an individual with outside political support may easily be able to hold up the entire process through repeated appeals. The only cost to the individual is the price of a twenty-nine cent stamp.

Why:

The DoD interim rules would reopen many proposals that were considered and rejected during the community base reuse planning process. For instance, the concept of a "Wind-Walker" power generating tower was rejected during the Mare Island Shipyard planning process, but this proposal is likely to reappear under the current DoD interim final rules

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Suite 630
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Column 3
Paragraph 91.7 (d)

Recommended Changes:

Again, delete the entire section on "Jobs Centered Property Disposal." This whole section will create concerns for the viability of the community's reuse of excess DoD property. The idea of the military having to become a player in the local real estate market is disturbing and should be rethought. Safeguards against speculative purchases/sales should be written into the DoD evaluation criteria in this subsection.

Why:

NAID is concerned that, if invited to submit "expressions of interest," the private sector will attempt to cherry-pick readily marketable parcels. This would undercut opportunities that the reuse authorities would otherwise have to allocate a portion of the sales revenues from the more readily marketable properties to address urgent infrastructure and redevelopment needs. If reuse authorities are only to receive the transfer of properties which are not readily marketable, then the practical ability of the reuse authorities to successfully convert bases to civilian use will be severely compromised. Although DoD's intention, as expressed at the outreach seminars, is to preclude cherry-picking, NAID believes that in practice, controversies will often arise as to whether particular sales in fact amount to cherry-picking.

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 Suite 630
 Alexandria, Virginia 22314
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Column 3
Paragraph 91.70 (d)

Recommended Changes:

This entire section should be rewritten to allow the Military Departments to negotiate individual property transfer approaches with the communities that will work on a case-by-case basis. Examples of the types of individual transactions which should be authorized within the Section 2903 structure include:

- * Incremental, phased redevelopment of the property in excess of current fair market value with the dominant net sales proceeds being returned to DoD (such as the Tustin approach with the Marine Corps at MCAS Tustin).
- * Sale of the property at "appraised fair market" with 40 percent of the sales proceeds remitted over time to the Military Department, with or without interest (such as the Inland Valley Development Authority proposal to the Air Force as Norton AFB).
- * Allowing the property to be conveyed for a 30-year period (similar to an educational conveyance) with all lease proceeds devoted to maintaining or improving the property. The community would be required to reimburse the Military Departments for any sales during this period.

Why:

There needs to be a variety of property transfer mechanisms under Section 2903 to fit the specific property and the specific market found at the community level.

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 Suite 630
 Alexandria, Virginia 22314
Phone: 703-836-7973

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Page 16130
Column 3
Paragraph 97.1 (d) (2)

Recommended Changes:

In the event that DoD ignores the community comments on revising subparagraph 97.1 (d) in its entirety, the second sentence in (2) should be revised as follows:

"...Such appraisals or estimates should address a range of likely market values taking into account: The 'as is, where is' condition of existing facilities, infrastructure and property; feasible uses for the property shown in the base reuse plan; the condition of the property with regard to local zoning; known environmental problems (asbestos, lead-based paint, contaminated soils, etc.) which will remain after base closing; the uncertainties in property..."

"...not be based on the highest and best use, but on the current marketable usability of the facilities, infrastructure and property in its 'as is, where is' condition in the most likely range of uses consistent with local interests as expressed in the Base Reuse Plan. The above appraisal..."

Why:

Base construction was not subject to local development requirements, since it was federal property. In many cases, the streets, older buildings, the utility systems, the base development plan, master metering of utility systems verses individual building metering, existing environmental problems, etc. do not meet local and state codes, local development or health standards, or permit requirements. Therefore, these facilities cannot be appraised as though they were constructed to the standards required of new development. Many improvements will need to be made to bring older bases up to current standards. Streets must be widened; greater turning radii constructed; street alignments corrected for higher public speed limits; buildings must be individually metered/ utility systems – especially water and sewage treatment plants – brought up to current state standards; a similar costly improvements made to allow the bases to effectively serve new economic development or public uses. These costs must either be borne by the local governments or development agencies or the future users. Appraisals must take these costs into consideration in establishing realistic reuse values for the bases.

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Address: 1725 Duke Street
Suite 630
Alexandria, Virginia 22314
Phone: 703-836-7973

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Page 16131
Column 2
Paragraph 97.1 (d) (5)

Recommended Changes:

Recommended changes: An unbiased appeals channel is needed to objectively weigh disputed military needs and desires against local economic redevelopment needs and desires. Appeals of disputed military decisions are directed through the same military channels to the Secretary of the Military Department concerned. These may be appeals of a disputed decision regarding a private sector sale of a base to be closed, or of excess personal property that a community seeks for economic development purposes. As now written, appeals must be directed to the same channel which made the decision being challenged. That is not an unbiased appeals channel.

Why:

The established appeals channel follows existing military department chains of command. Military decisions to seek income from a base sale or for use of excess equipment for units which are not being moved are areas of potential community-military dispute. A community appeal of a decision made by this chain of command, to the same chain of command, in all probability could not receive unbiased consideration. This appeals channel is a prescription for conflict between local communities and the Military Departments concerned. A separate appeals channel or office having less potential for bias needs to be designated to render objective decisions involving disputed issues between the military and local communities.

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Address: 1725 Duke Street
Suite 630
Alexandria, Virginia 22314
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Page 16131
Column 3
Paragraph 97.1 (e) (4)

Recommended Changes:

Before making an economic development conveyance of real property,
"...an appraisal or other estimate of the property's fair market value shall be made, based on the current marketable reuse condition of the facilities, infrastructure and property in its "as is, where is" condition; current zoning and the estimated costs necessary to cause the facility, infrastructure and property to meet local, state, federal codes, as well as all environmental, development and health standards or reuse permit requirements. The Military Department shall consult with the local redevelopment authority on appraisal assumptions, guidelines, local development and reuse standards, and on instructions given to the appraiser, but shall..."

Why:

The proposed conveyance procedures are based solely on the future 'planned reuse' of the base property. The valuation process does not discuss the current condition of the facilities or local zoning - two of the key elements in real estate appraisals. The DoD definition presumes that the infrastructure to support the future planned use will appear automatically. Under the DoD interim rules, the community's "proposed reuse" by itself will set the fair market value basis for the "explanatory statement" required by Section 2903 for any discount below fair market artificially inflated value. In effect, the community will be penalized for planning. DoD is actually transferring property in an "as-is, where-is" condition - not some ideal redeveloped future land use. Current facility conditions (including the needed infrastructure improvements) as well as existing local zoning must in fairness be included in the DoD definition of "fair market" value along with the proposed reuse.

This rule also involves an unreasonable interpretation of Section 2903 which authorizes "the transfer of property ... for consideration at or below fair market value of the property transferred or without consideration." DoD has interpreted "fair market value" to mean "planned use." NAID members believe this is not a reasonable interpretation, and that this section should comply with the precise language in Section 2903.

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Address: 1725 Duke Street
Suite 630
Alexandria, Virginia 22314
Phone: 703-836-7973

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Page 16131
Column 3
Paragraph 91.7 (e) (4)

Recommended Changes:

The term "fair market value" is used, even though it has not been fully defined previously. "Fair market value," for purposes of this rule, should be defined in the definitions sections and should refer to the estimated NET market value of the property after taking into account the proposed reuse and the fair share of all infrastructure, utility system, and other essential upgrades to the property, including abatement of asbestos, lead paint, and other hazards. It should also recognize the devaluation to the property from the stigma and potential ongoing liability from the presence of hazardous substances on the property.

Why:

Failure to recognize these conditions of the property, which may be ignored in a standard appraisal, establishes an artificially high baseline for future negotiations.

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Address: 1725 Duke Street
 Suite 630
 Alexandria, Virginia 22314
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Page 16132
Column 1
Paragraph 91.7 (e) (4)

Recommended Changes:

ADD the following after the first sentence:

"...assumptions, guidelines and on instructions given to the appraiser, but shall be fully responsible for completion of the appraisal. In the event that the local redevelopment authority has obtained an appraisal that differs from that obtained by the military department by the greater of 25% or \$100,000.00, the local redevelopment authority may request that a third independent appraiser be jointly selected and retained, in which event the appraisal of the third appraiser shall be deemed the fair market value. Costs of this third appraisal shall be shared equally by the parties ..."

Why:

The appraisal process for determining fair market value for negotiated public agency sales and economic benefit conveyances should include a mechanism for resolving differences between appraisals. The procedures recommended above are commonly used in private sector real estate transaction.

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Suite 630
Alexandria, Virginia 22314
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Page 16131
Column 3
Paragraph 97.1 (d)

Recommended Changes:

An additional sentence should be added to subparagraph (d) as follows: "The written explanation should identify any "consideration" provided to the DoD for the property transfer, such as the community assuming normal DoD care and custody costs for the property."

Why:

The economic development conveyance should also document any "consideration" (the specific word in section 2903) which DoD receives for the property transfer.

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Page 16132
Column 1 and 2
Paragraph 91.7 (e) and (f)

Recommended Changes:

At some point in the discussion of economic development conveyances or profit sharing, it is important to stress that: "The entire base should be viewed as a cohesive parcel of real estate. The parcels with early reuse potential should be used to provide an income stream to support the long term development of the entire property."

Why:

DoD guidance should not call for the early required sale of the valuable properties leaving no financial support for supporting the entire overall base.

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Page 16132
Column 2
Paragraph 91.7 (f) (4)

Recommended Changes:

Subparagraph (1) should be amended to allow the Secretary of the Military Department to accept local community proposals for a longer payback period to DoD in unusual cases – not to exceed 20 years. This 20-year period should also be reflected in subparagraph (4) (ii).

Why:

The 20-year period is much closer to commercial amortization periods for office - industrial structures.

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Page 16132
Column 2
Paragraph 91.7 (f) (2)

Recommended Changes:

CHANGE as follows (middle of paragraph):

"... In the absence of a determination by the Secretary of the Military Department concerned that different division of the net profits is appropriate because of negotiations between the Military Department and the local redevelopment authority, the net profits shall be shared on the basis of 60 percent to the local redevelopment authority and 40 percent to the Department of Defense..."

Why:

The community should clearly have an ability to negotiate the split of profits, rather than a regulated split becoming a defacto standard. Nevertheless, the split indicated in the regulations may well be considered acceptable by many or most redevelopment authorities.

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Page 16132
Column 3
Paragraph 91.7 (f) (4)

Recommended Changes:

Subparagraph (4) (iv) (A) should be revised to recognize that off-site capital improvements directly related to reuse of the surplus base property are an allowable cost, even though off-site capital costs are not recognized in 41 C.F.R. 1010-47.4908.

Why:

Closed DoD bases usually are not individual buildings located in the middle of an already developed urban area. Most DoD facilities lack adequate road access both on-site and off-site necessary to reasonably develop the property and to create new jobs. The community's ability to create jobs and value on former bases will often be dependent on the community's capacity to open access to the base, especially now that security is no longer paramount.

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Page 16132
Column 3
Paragraph 91.7 (e)

Recommended Changes:

Add a new subparagraph indicating the ASD (Production & Logistics) guidance of December 20, 1991 Subject: Re-delegations of Authority and Disposal Strategy for Base Closure Property, on charging fair market value for parts of base used for golf courses or other revenue-related recreational uses does not apply when Section 2903 economic development conveyances are proposed at the base.

Why:

The golf course or other recreational use should be viewed as one revenue source to support the overall property reuse without being identified as a separate profit center. DoD should then share in the overall profits from the base, and should not require the early sale resulting in the "cherry-picking" of the few profitable sections of a base. For instance, the Air Force is insisting on the purpose of the golf course at Williams AFB, where the course also serves as the final effluent distribution site for the base sewer system. The Williams AFB golf course is one of the few early income-producing parcels. The income from the golf course should be available to support the maintenance on the balance of the property.

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Page 16132
Column 2
Paragraph 91.7 (f) (3)

Recommended Changes:

Delete subparagraphs (3) entirely.

Why:

Subparagraph (3) is unnecessary; the fair market value of the property should be based on its "as-is, where-is" condition at the time of transfer, current local zoning, and the proposed use of the property, adjusted by the offsetting estimated value of infrastructure improvements to support the reuse. Most communities will not have problems sharing the upside net proceeds from the long-term development process, including that value created by local zoning and local development entitlement. Paragraph (c) should be dropped entirely.

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Address: 1725 Duke Street
 Suite 630
 Alexandria, Virginia 22314
Phone: 703-836-7973

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Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: NAID
(Activity/Location/Community/Installation/Group)

Page 16132
Column 3
Paragraph 91.7 (f) (4) (iii)

Recommended Changes:

Delete the subparagraph entirely.

Why:

The control-oriented DoD approach in the DoD interim rules is especially evident in subparagraph (4) (iii) in particular and this subparagraph should be deleted: i.e., "The deed provisions will forbid 'straw' transactions (sales or leases to a cooperating party at a nominal or lease price) and other devices designed to circumvent the Government's recovery of its share of the net profits."

This selection of words will be highly inflammatory to most communities and the two sentences are unnecessary. The regulations in 41 C.F.R. 101-47.4908 already describe the reporting process for communities quite adequately. As an aside, local economic development today is a highly competitive field. Many communities and private developers sometimes subsidize new prospects to attract jobs. DoD should recognize that the community must "carry" the overall project while creating new jobs. It is inappropriate to presume that the community's motive is to circumvent the Government's recovery of its share of the net profits.

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Suite 630
Alexandria, Virginia 22314
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Page 16132
Column 3
Paragraph 91.7 (f) (4) (iv) (B)

Recommended Changes:

Subparagraph (4) (iv) (B) will be very confusing to most communities. The reference (48 CFR part 31) refers to part 31 of the Federal Acquisition Regulations (FARs) in terms of identifying allowable local redevelopment authority costs. Most communities do not have easy access to the FARs and they will be in a decided disadvantage in negotiation with the Military Departments. The final sentence in this Paragraph should be revised to give examples of specific eligible". . . costs of capital and operations for the local redevelopment authority with regard to that property, such as the state-local expenses for financing on-site and off-site infrastructure improvements related to reuse of the site; demolition costs; design and engineering expenses; planning and marketing expenses -- including brokerage fees; federal relocation costs, if any; the costs for upgrading or relocating McKinney Act housing on-site or off-site; direct capital interest or borrowing costs; and local facility care and custody deficits for maintaining the former base and other Military Department / community agreed - upon costs necessary do redevelop the property."

Why:

These should be consistent allowable costs factors across the three Military Departments to arrive at the net property sales/lease profits to be shared with DoD.

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Page 16132
Column 3
Paragraph 91.7 (f) (4) (iv)

Recommended Changes:

ADD the following paragraph following paragraph (B):

(C) A pro-rata share of the cost of base-wide planning, maintenance, security, infrastructure repair, renovation, or construction. Infrastructure costs may include, but ar not limited to: roads, water and sewer lines, storm drainage systems, utility systems, lighting and habitat restoration.

Why:

The regulations reference in (A) and (B) are not directly applicable to many of the types of costs that should be considered in valuing the "net profit" from base property sales. Military bases typically require considerable infrastructure renovation to become viable as urban properties. Infrastructure costs may be incurred throughout the base and even outside the base, but the benefits accrue to all properties. In addition, considerable planning, security, and maintenance costs may be incurred to make the property salable. All property sale proceeds should, therefore, contribute to covering these costs, and the "profit" from the sales should be adjusted accordingly.

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Page 16132
Column 3
Paragraph 91.7 (f) (4) (v)

Recommended Changes:

Subparagraph (4) (v) should be retained. It is important that the DoD reporting requirement, now called for in 41 C.F.R. 101-47.4908 be on the basis of an annual report for all sales/lease transaction for the entire section 2903 economic development conveyance area; not a report on each individual sale or lease transaction as now implied in the DoD rules.

Why:

Reporting to DoD on each and every lease or sale will be an unnecessary burden; the GSA reporting process is reasonable and should be retained

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Page 16133
Column 1
Paragraph 91.7 (g)

Recommended Changes:

This section should add language specifically addressing the leasing of real property to the local redevelopment authority as the appropriate public agency, which could then sublet to private businesses that are compatible with the community reuse plan.

Why:

As this section is written, it implies that the Military Departments could lease real; property to businesses that do not complement the base reuse plan.

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Page 16133
Column 1
Paragraph 21.7 (g) (2)

Recommended Changes:

The leasing guidance to the Military Departments should clearly indicate that the Departments can approve interim use leases beyond one year and until the real property is ready for transfer to the community.

Why:

With a longer-term lease period leading up to the formal property transfer, new private sector tenants can ensure that leasehold improvements can be financed commercially and can then be transferred to their ownership or lease once the community takes title to the base closure facility. Without this assurance it will be sometimes difficult to finance tenant improvements.

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Suite 630
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Page 16133
Column 1
Paragraph 91.7 (g) (3)

Recommended Changes:

This section should contain a requirement that the Military Department complete the Finding of Suitability to Lease (FOSL) in an expeditious manner. A maximum of six weeks after receipt of a request from the local Redevelopment Authority would seem reasonable.

Why:

Leasing of property is critical to rapid job creation and retention. Private sector prospects have specific production dates to meet.

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Page 16133
Column 2
Paragraph 91.7 (h) (A)

Recommended Changes:

The entire section on Personal Property should be revised. The interim rules leave the base equipment wide-open for wholesale removal -- the very problem that prompted this Pryor Act amendment in the first instance. The specific elements of concern to NAID are as follows:

The lack of a strong emphasis on reaching a consensus at the local level between the base commander and the base reuse planning committee on an acceptable listing of personal property needed for early reuse of the property.

The exclusion in subparagraph (h) (1) of "equipment that the base does not own." [In the case of Navy facilities, this exception includes critical items located at the base but technically "owned" by other "claimant commands," such as airfield radars, ground support equipment and electronic equipment that are essential to the civilian reuse of a military airfield].

The broad exemption of any community review of equipment shipped under subparagraph (h) (5) even after an agreed upon listing of personal property has been arrived at cooperatively by the base commander and the community.

The expansion in subparagraph (h) (5) (i) of equipment relocating with a transferred unit to include; "the major command having jurisdiction over the installation (e.g., Forces Command or the Air Force's Air Combat Command), or a major claimant having jurisdiction over the installation (e.g. the Navy's U.S. Atlantic fleet) may also include property that is needed immediately and is indispensable to an organization under its jurisdiction at another installation for carrying out the organization's primary mission." [In a practical sense, this new exemption means that all personal property can now be easily removed].

The elimination of low-cost equipment from transfer. In a practical sense, the new guidance means that low-cost equipment items can be removed and placed on shelves at other bases for future use.

The DoD Personal Property rules should be revised to require, once the base commander and community have reached agreement on a listing of retained equipment, that those few differences not solved by substitute items should be reviewed at the Assistant Secretary level of the affected Military Department. The community should be allowed to include its comments in the Military Department decision process.

Why:

NAID members believe that the current interim rules for personal property will place DoD and the communities in an on-going, unnecessary adversarial position.

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Suite 630
Alexandria, Virginia 22314
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Page 16133
Column 2
Paragraph 91.7 (h) (1)

Recommended Changes:

The exclusion in subparagraph (h) (1) of "equipment that the base does not own" should be eliminated.

Why:

In the case of Navy facilities, this exception includes critical items located at the base but technically "owned" by other "claimant commands," such as airfield radars, ground support equipment and electronic equipment that are essential to the civilian reuse of a military airfield.

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Suite 630
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Page 16133
Column 2
Paragraph 91.7 (h) (2)

Recommended Changes:

After the first sentence, the following should be inserted.

For multi-tenant bases, the individual inventories of each activity should be consolidated into a single data base.

Since this consolidation could take some time, the inventory completion date of June 1, 1994 should be changed to September 15, 1994.

Why:

On large multi-tenant bases, there may be dozens of individual activities submitting inventories. Each activity could use a different method for recording the results of their inventory. This would make it very difficult for the Redevelopment Authority to review the total inventory and decide what property has reuse potential.

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 Suite 630
 Alexandria, Virginia 22314
Phone: 703-836-7973

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Page 16133
Column 3
Paragraph 91.7 (h) (4) (i)

Recommended Changes:

Change the period from which equipment cannot be moved to 120-days following completion of the community redevelopment plan.

Why:

It takes a reasonable period to translate the community's base reuse period into the specific equipment items needed to support the reuse plan. One week is not a reasonable period.

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 Suite 630
 Alexandria, Virginia 22314
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Page 16133
Column 3
Paragraph 91.7 (h) (5)

Recommended Changes:

The broad exemption of any community review of equipment shipped under subparagraph (h) (5) – even after an agreed upon listing of personal property has been arrived at cooperatively by the base commander and the community – should be eliminated with the requirement for an Assistant Secretary-level decision process, based on the major command recommendation and the community comments on the effects of the equipment shipment on the community base reuse plan.

Why:

This approach is based on the base commander - community reaching a consensus on the listing of equipment to be retained. This process should function like the existing approach in Enclosures 3 to DoD Directive 5410.12.

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Suite 630
Alexandria, Virginia 22314
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Page 16133 and 16134
Column 3 and 1
Paragraph 97.1 (h) (5) (i)

Recommended Changes:

Eliminate the expansion made in subparagraph (h) (5) (i) on equipment relocation with a transferred unit to include: "the major command having jurisdiction over the installation (e.g., Forces Command or the Air Force's Air Combat Command), or a major claimant having jurisdiction over the installation (e.g. the Navy's U.S. Atlantic fleet) may also remove property that is needed immediately and is indispensable to an organization under its jurisdiction at another installation for carrying out the organization's primary mission."

Why:

In a practical sense, this new exemption means that all personal property can now be easily removed.

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Address: 1725 Duke Street
Suite 630
Alexandria, Virginia 22314
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Page 16134
Column 2
Paragraph 91.7 (h)

Recommended Changes:

The requirement in earlier drafts against the shipment of low cost equipment should be restored.

Why:

In a practical sense, the new guidance means that low-cost equipment items can be removed and placed on shelves at other bases for future use. The shipment of low cost items is rarely cost-effective in relation to helping the community succeed with its base reuse plan.

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Suite 630
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Page 16134
Column 2
Paragraph 91.7 (h) (6)

Recommended Changes:

While air "emissions (credits) trading procedures will be issued separately and are not covered by the interim final rule," NAID is concerned that air emission credits currently at the closed bases in "non-attainment areas" can provide a critical economic development incentive for early civilian reuse. Emission credits should not be transferred off the base, including transfers to other Federal facilities, without a joint agreement with the community base reuse committee.

Why:

NAID is otherwise concerned that there will be pressures to exchange short-term Federal benefits for long-term DoD/community liabilities in disposing of and marketing the remaining base facilities without emissions credits.

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Suite 630
Alexandria, Virginia 22314
Phone: 703-836-7973

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Page 16134
Column 2
Paragraph 91.7 (h) (7)

Recommended Changes:

The emphasis in subparagraph (h) (7) on identifying appropriate substitute equipment items should be moved forward in the process. The revised guidance should stress that retaining equipment in place allows the community to take over early management and operations of the surplus base promptly - with a resulting savings to DoD care and custody costs.

The guidance should also emphasize that substituted equipment must be of similar age, similar quality, serviceable and in good repairs for supporting the base reuse plan. Finally, the guidance should specify that the DoD agency relocating the equipment shall also pay for the transportation and reinstallation cost for the replacement equipment.

Why:

To ensure that the relocation of equipment is cost-effective to both DoD and the impacted community. The transportation - reinstallation cost language will cover the uncertainty that has arisen to date over whoe in responsible for covering the costs involved; additional language will ensure that the equipment actually gets back to the base for community reuse.

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Suite 630
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Page 16134
Column 2
Paragraph 97.1 (h)

Recommended Changes:

The guidance should specify that all soft-ware and associated licenses required to operate the Personal Property should also be transferred to the community.

Why:

Without the soft-ware packages being readily available, it will be difficult for many communities to operate the equipment and to assume early maintenance/care of the surplus DoD facilities.

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Suite 630
Alexandria, Virginia 22314
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Page 16134
Column 3
Paragraph 91.7 (i)

Recommended Changes:

Subparagraph (2) should be amended to require the Military Departments to maintain the base closure facilities for up to two-years after the final base closure or 18 months after the property is available for civilian reuse, whichever is later date, or until the community enters into an interim use lease for the property.

Why:

As currently worded, DoD's maintenance responsibilities could end as early as one week after the completion of the community base reuse plan – or considerably earlier than the actual closure itself.

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Suite 630
Alexandria, Virginia 22314
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Page 16134
Column 3
Paragraph 91.7 (i) (3) (iii)

Recommended Changes:

Subparagraph (3) (iii) should be amended by adding: "or necessary and cost-effective for the community to assume early maintenance for a portion of the base."

Why:

It may be necessary to alter a fence line or to modify a water line connection (e.g., Philadelphia Shipyard) for the community to assume early care and custody responsibility with resulting costs savings to DoD.

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 Alexandria, Virginia 22314
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Page 16134
Column 3
Paragraph 91.7 (i)

Recommended Changes:

An additional paragraph should also be added as follows: The Military Departments are encouraged to arrange for the phased transfer of surplus real property to the community over a one-to-two year period, and to avoid imposing the entire care and custody financial burden on the redevelopment authority until it can become self-sustaining.

Why:

This guidance is needed to avoid the situations at England AFB and Eaker AFB where the Air Force is insisting on the community absorbing the entire base at one time — after long delays in the Air Force approval of interim use leases for community prospects.

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Suite 630
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Page 16134
Column 2 and 3
Paragraph 91.7 (i) (4)

Recommended Changes:

Revise to read:

- (4) The negotiated minimum maintenance agreement must be tailored to the specific non-Military uses, and must be sufficient to maintain the facilities in such a manner so that they will not deteriorate. The Maintenance Agreements shall at a minimum include the following:
- (i) Maintaining the facilities and equipment at a level that shall prevent undue deterioration and allow transfer to the local redevelopment authority in an acceptable condition. This shall include, but not be limited to, the following:
1. Providing adequate utilities and heat to prevent deterioration of the buildings;
 2. Providing security to prevent vandalism of abandoned and vacant buildings and equipment;
 3. Repair and replace any broken windows, glass, etc.;
 4. Provide funding for required repairs to buildings and equipment which may be caused by vandalism; and
 5. Provide such other items of maintenance and/or repair as may be required to assure that the buildings and equipment to be turned over to the local redevelopment authority will not become a burden upon the local taxpayers.
- (ii) Not delaying the scheduled closure date of the installation.

Why:

NAID is concerned that the Military will abandon buildings and that the minimum level of maintenance budgeted will be insufficient to keep the buildings from becoming a burden on the local taxpayers. We are concerned that adequate utilities will not be provided, causing the buildings to deteriorate quickly, that broken windows will not be replaced, that required repairs will not be provided should the buildings be vandalized, and that the buildings generally will become an eyesore and burden once the Military leaves.

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Page 16134
Column 3
Paragraph _____

Recommended Changes:

An additional Section should be added identifying the previous OSD policy guidance that is being superseded by the Final Rules. Specifically, the final sentence on page 2 of the ASD (Production & Logistics) memorandum of December 20, 1991, Subject: Re-delegation of Authority and Disposal Strategy for Base Closure Property. The sentence to be deleted is: "Recreational properties with income-producing potential should be sold."

Why:

In some instances, the recreational property may be one of the few revenue sources available to sustain the community maintenance of the entire base property. Individual parcels should not be "cherry-picked" and sold independently of the effect on the community's capacity to finance the entire base property reuse.

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Page 16158
Column 1
Paragraph 91.7 (j) (3) (F)

Recommended Changes:

ADD the following at the end of the paragraph:

"...and the remedy has been demonstrated to the Military Department concerned, EPA and the appropriate State official to be operation and successfully..."

Why:

This provides opportunity for state environmental officials to have input into the re-mediation decision and provide regulatory input for sites which are not listed on the NPL.

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Page last
Column _____
Paragraph _____

Recommended Changes:

Why:

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National Association of Installation Developers

Jane English
President

August 5, 1995

Honorable Joshua Gotbaum
Assistant Secretary of Defense (Economic Security)
Office of the Secretary of Defense
Washington, D.C. 20301

1124
8/15

Dear Mr. Secretary:

During our meeting on June 25th under the auspices of Senator Pryor, you graciously invited our proposal for identifying the few high value base closure properties without resorting to DoD efforts to sell the property in advance of the community base reuse planning process.

Attached is an alternative approach offered by our NAID membership which would strengthen the base reuse planning process as both a land use plan and a business plan. This alternative approach would:

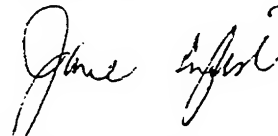
- Re-emphasize the community base reuse plan as the key document for identifying the physical and environmental conditions on the base as well as the likely long-term costs (and revenues) to redevelop the facilities.
- Clarify the key role of the local redevelopment authority as the primary entity in planning and marketing the surplus base facilities.
- Build into the base reuse plan a thorough dialogue with the real estate brokerage and development professions.
- Allow the local redevelopment authority (in the case of the few potential "high value" properties) to offer "joint venture" marketing approaches where the Military Departments, as limited partners, would receive their maximum sales/lease returns over the long-term based on local zoning, development entitlements, and planned infrastructure.
- Call for impartial third-party identification of possible "high-value" properties, using the community base reuse plan objectives. Allowing the communities to participate and to offer revised proposals to DoD.

We are hopeful that this alternative approach will identify the major obstacles and the market opportunities for the property during the local base reuse planning process and will also overcome DoD's concern on having to market the property prematurely.

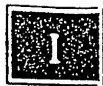
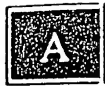
NAID is also submitting its comments on the existing Interim Final Rules to Mr. Bayer. We are hopeful that you will encourage an open dialogue with the impacted communities before arriving at the published Final Rules. The current process of publishing editions in the Federal Register does not lend itself to the communities understanding the DoD perspective and vice versa. There is precious little time remaining and an open dialogue with the "customer" communities who must reuse and manage the properties is very much needed. Our NAID member communities are pleading for a joint DoD-community understanding and acceptance of the Final Rules that will implement Title XXIX of the 1994 Defense Authorization Bill.

Thank you again for this opportunity to submit an alternative approach for DoD's consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jane English".

Jane English
President



National Association of Installation Developers

Jane English
President

August 4, 1994

Joint DoD-Community Cooperative Marketing Approach

In Accordance With The Community Base Reuse Plan

The National Association of Installation Developers believes that the DoD Interim Final Rules calling for DoD to conduct "ready-market" tests for all base closure properties is an unworkable and inappropriate public policy, which conflicts with the inherent community responsibility to replan and redevelop the surplus base property. NAID recommends that the few cases involving potential "high-value" properties can be identified far more realistically in cooperation with the communities and in accordance with the approved community base reuse plan, as follows:

1. The communities would be required to complete their base reuse plans in a timely manner, (i.e. within 18 months of property screening by DoD) -- including the identification of the facility strengths and weaknesses from a competitive marketing standpoint, opportunities to replace the lost DoD jobs with the type of employment sought by the community, and the long-term market opportunities for the properties.
2. The communities will ensure that the base reuse plans include a market analysis and an identification of the major facility infrastructure requirements needed to implement the approved base reuse plans -- including the costs of bringing the infrastructure and facilities up to federal, state and local codes (or the alternative demolition involved). The community base reuse plans will also provide a financial analysis of the business-related revenues as well as the capital and operating costs for the property over a 15- year period that would be anticipated from community redevelopment of the base. The community reuse plan should identify the type, quantity and quality of jobs sought by the community in the reuse of the property.
3. The community base reuse plan will also describe how the value of the real estate in its current "as-is-where-is" condition (based on existing facility conditions, present infrastructure, and current land use zoning) can be enhanced by local zoning, development entitlements and orderly provision of public improvements.

4. As a result of Steps 1, 2, and 3, the community base reuse plan will in effect become a well-documented land use plan supported by a long-term business plan for the base property.
5. DoD will refer copies of all federal, state and local requests for property received during property screening to the community base reuse steering committee (or local redevelopment authority). DoD will also defer any final property transfer decisions until the various proposals can be considered with the community base reuse planning process.
6. DoD and the Military Departments will continue to use the approved community base reuse plans as the "preferred alternative" in the property disposal EIS, and will also now use the community base reuse plans for their decisions: (1) on how the property should be marketed most effectively, and (2) whether to convey the property for Economic Development purposes under Section 2903.
7. The entire base will be viewed as a cohesive parcel of real estate. The communities will not be required to purchase specific parcels (such as golf courses and family housing) apart from the final decision as to how their entire base will be managed, redeveloped and financed. The parcels with early reuse potential should be used to provide an income stream to support the long-term development of the entire property.
8. The responsibility for marketing the property will rest solely with the community except in those few cases where the community has not completed its base reuse plan in a timely manner. The community will intensively market the property in keeping with the long-term job creation goals identified in Step 3 -- with the Military Departments receiving their maximum cumulative net property sales/lease profits (40 percent) in non-rural areas over the long-term through the orderly redevelopment of the property.
9. DoD will reach a consensus with the impacted communities as to the normal types of community operating and capital costs that will represent reasonable community expenses for marketing, maintaining and developing the base facilities over the long-term to arrive at the net sales/lease value proceeds from the property. Off-site capital expenses necessary to open the base property to further density (hence value), such as improved highway access, will be recognized as a reasonable community cost.
10. The Military Departments will reach agreement with the local redevelopment authority on any deed restrictions to be included in the final Record of Decision (ROD) and will share the ROD in draft with the local redevelopment authority.

11. The communities will utilize the services of the residential, commercial and industrial brokerage professions wherever appropriate to provide maximum exposure for the surplus DoD base facilities. This key marketing step requires that brokerage fees be explicitly recognized in the DoD Final Rules as an appropriate community development cost that will take maximum advantage of existing real estate market mechanisms.

Special Features for the Few Possible "High-Value" Properties:

12. The local redevelopment authorities will actively reach out to the appropriate real estate development professional associations to identify possible high-value properties, especially after local zoning and entitlements have been provided by the community. In the major metropolitan areas where high-value properties are most likely to be located, the local redevelopment authorities will seek the advice of qualified professional groups, such as the Urban Land Institute regional councils or others. This advice-seeking step will follow the approach used in Denver-Aurora for Lowry AFB in cooperation with the local ULI regional council. The comments of these professional groups will be incorporated wherever possible in the final community base reuse plan.
13. In those instances where the community base reuse plan suggests "high-value" properties, the Military Departments will be authorized and encouraged to enter into joint venture agreements where the preponderance of the net scales/lease values will be returned to DoD over the long-term. These "high-value" properties could also be transferred to communities under Section 2903 for economic development purposes, but for value in excess of current fair market value based on current conditions and current zoning. As limited partners in the joint venture reuse of the property, the Military Departments will be encouraged to participate in the land use planning process, in the development of Request-for-Qualifications and Requests-for-Proposals for the competitive sale/lease of major parcels, and the final contractor competitive selection process.
14. In those instances where the Military Department believes that "high-value" property may exist, DoD will retain an independent non-profit association, such as the American Society of Real Estate Counselors or the Urban Land Institute, to offer its recommendations as to the optimum reuse of the property based also on the community base reuse plan but also including other development features to enhance the goals in the community base reuse plan. Community input will be encouraged in this independent review process.

15. The community will be provided an opportunity to submit new information or new offers for disposal of a local "high-value" property.
16. In the event that the community does not complete a community base reuse plan, or in the event that the revised community offer is substantially below the independent third-party development recommendation, DoD and the Military Departments reserve the option to sell the property at open bid sale, but subject to the community base reuse plan when available.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS FORT DEVENS
FORT DEVENS, MASSACHUSETTS
01433-5050

1125
8/15



AFZD-JAA

29 July 1994

MEMORANDUM FOR Office of Assistant Secretary of Defense for
Economic Security, 3D814, The Pentagon,
Washington DC 20301-3300

SUBJECT: Comments on Interim Rule Implementing Title XXIX of
The National Defense Authorization Act for FY94

Comments on Interim Final Rule, 32 CFR Part 90 and 91, which
appeared in the April 6, 1994, Federal Register are enclosed.

JOHN K. HARMS
Attorney-Advisor

Encl
as

CF:

Major Robert M. Lewis, U.S. Forces Command, Fort MacPherson GA
30330 (w/encl)

Mr. H. Carter Hunt, Deputy Commander, Fort Devens MA 01433
(w/encl)

Mr. James Chambers, BRAC Environmental Coordinator, Fort Devens
MA 01433 (w/encl)

Mr. Ron Ostrowski, Environmental Management Officer, Fort Devens
MA 01433 (w/encl)

Format For Commenting On the Interim Rule
Implementing Title XXIX of The
National Defense Authorization Act for FY94

Forward

Comments to: Office of Assistant Secretary of Defense for
Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Fort Devens, Massachusetts
(Activity/Location/Community/Installation/Group)

Page 58 Fed.Reg. 16128
Column 1st (left)
Paragraph 91.7

Recommended Changes:

State somewhere in this paragraph some details on how Native American groups fit into the screening process, such as the point in the process when they can request property and whom they have priority over and who has priority over them. If this is stated clearly in some DOI regulation, include a cross-reference.

Why:

Native American groups occupy a unique position in the legal system. The unique laws (e.g., the separate Federal and state processes for recognizing tribes) and the possibilities of a "state-within-a-state" and casinos are confusing and anxiety-provoking. Some statement in these regulations of where the tribes fall in the "pecking order" and how the different types of tribes (Federally-recognized, state-recognized, recognized by neither) would clear those matters up.

Name: John K. Harms, Attorney-Advisor
Address: Headquarters, Fort Devens
ATTN: AF2D-JAA
Fort Devens, Massachusetts 01433-5050
Phone: DSN 256-3586/2543 (508) 796-3586/2543

Format For Commenting On the Interim Rule
Implementing Title XXIX of The
National Defense Authorization Act for FY94

Forward

Comments to: Office of Assistant Secretary of Defense for
Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Fort Devens, Massachusetts
(Activity/Location/Community/Installation/Group)

Page 58 Fed.Reg. 16128
Column 2d (middle)
Paragraph 91.7(a)(4)

Recommended Changes:

Add following at end of the section: "The decision on the part of the requesting agency to ask for the land, and on the part of the agency who controls the closing installation to grant other Federal Agencies' requests, shall be exempt from the requirements of the National Environmental Policy Act and the regulations of the Council on Environmental Quality, 40 CFR 1500 et seq., so long as the decision as to actual land use is preceded by compliance with NEPA and the CEQ regulations."

Why:

Turning over land to another Federal Agency as a result of the screening process is similar to selling it to a private entity, and is arguably a "major Federal action." The screening process time-frames established by the Interim Rule are too tight to perform a NEPA analysis and litigate any lawsuits which might result from someone disliking the Agency getting the land but faulting the process. Recommended change establishes that NEPA must be complied with once, but only once--before the actual use of the land.

Name: John K. Harms, Attorney-Advisor
Address: Headquarters, Fort Devens
ATTN: AFZD-JAA
Fort Devens, Massachusetts 01433-5050
Phone: DSN 256-3586/2543 (508) 796-3586/2543

Format For Commenting On the Interim Rule
Implementing Title XXIX of The
National Defense Authorization Act for FY94

Forward

Comments to: Office of Assistant Secretary of Defense for
Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Fort Devens, Massachusetts

(Activity/Location/Community/Installation/Group)

Page 58 Fed. Reg. 16130
Column 3d (Right)
Paragraph 91.7(d)(2)

Recommended Changes:

State deadline for completing the evaluation of the Fair Market
Value for closing bases.

Why:

When the clauses between commas are removed, the first sentence
requires Departments to "begin an appraisal or other estimate of
the property's fair market value." No deadline for finishing the
appraisal is stated.

Name: John K. Harms, Attorney-Advisor
Address: Headquarters, Fort Devens
ATTN: AFZD-JAA
Fort Devens, Massachusetts 01433-5050
Phone: DSN 256-3586/2543 (508) 796-3586/2543

Format For Commenting On the Interim Rule
Implementing Title XXIX of The
National Defense Authorization Act for FY94

Forward

Comments to: Office of Assistant Secretary of Defense for
Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Fort Devens, Massachusetts

(Activity/Location/Community/Installation/Group)

Page 58 Fed. Reg. 16131
Column 2d (middle)
Paragraph 91.7(d)(7)

Recommended Changes:

Add the following at the end: "The ASD(ES), upon making a finding that this process would interfere with actions already taken or agreed upon at a particular base and that the process would not facilitate economic development of the base and surrounding communities, may exempt such base from the process."

Why:

Much of the interim rule is more detailed than this paragraph. A developer who dislikes a decision could claim that since there are no standards, ASD(ES) cannot follow the standards. Establishing a rational but not-too-difficult process insulates the ASD(ES)'s decisions from such claims. At the same time, the suggested language will not prevent ASD(ES) from exercising the level of discretion with which officials at that level are customarily entrusted.

Name: John K. Harms, Attorney-Advisor
Address: Headquarters, Fort Devens
ATTN: AFZD-JAA
Fort Devens, Massachusetts 01433-5050
Phone: DSN 256-3586/2543 (508) 796-3586/2543

Format For Commenting On the Interim Rule
Implementing Title XXIX of The
National Defense Authorization Act for FY94

Forward

Comments to: Office of Assistant Secretary of Defense for
Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Fort Devens, Massachusetts

(Activity/Location/Community/Installation/Group)

Page 58 Fed. Reg. 16132

Column 3d (right)

Paragraph 91.7(f)(3)

Recommended Changes:

Add the following as new section (vi):

" (vi) Prior to entering into such a transaction, the redevelopment authority will set forth the system it will use to track costs to the Defense Contract Audit Agency, the Army Audit Agency, or another agency designated by the service secretary concerned. No transaction may proceed until the auditing agency certifies to the secretary concerned that the redevelopment authority's system tracks allowable costs in accordance with Generally-Accepted Accounting Principles (GAAP) and Cost Accounting Standards."

Why:

The Interim Regulation, 91.7(f)(iv), at 59 Fed. Reg. 16132, allows capital costs as provided in 41 CFR 101-47.4098(b) and direct and indirect costs allowed under 48 CFR Part 31 (Federal Acquisition Regulation cost principles). FAR cost principles states costs must be reasonable, allocable, and not one of a list of unallowable costs ("not specifically disallowed"). The proposed change will ensure that the system the redevelopment authority uses to track those costs (the accounting system) is one which the Government can examine and audit if necessary. Waiting until the end of the process runs the risk that the redevelopment authority's claimed costs are unauditible.

Name: John K. Harms, Attorney-Advisor

Address: Headquarters, Fort Devens

ATTN: AFZD-JAA

Fort Devens, Massachusetts 01433-5050

Phone: DSN 256-3586/2543 (508) 796-3586/2543

Format For Commenting On the Interim Rule
Implementing Title XXIX of The
National Defense Authorization Act for FY94

Forward

Comments to: Office of Assistant Secretary of Defense for
Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Fort Devens, Massachusetts

(Activity/Location/Community/Installation/Group)

Page 59 Fed.Reg. 16133

Column 3d (right)

Paragraph 91.7(h)

Recommended Changes:

Delete the words "and after notice to the local redevelopment
authority."

Why:

Determining the applicability of one of the exceptions is
uniquely within the expertise of the gaining or losing
Installation Commander.

Name: John K. Harms, Attorney-Advisor

Address: Headquarters, Fort Devens

ATTN: AFZD-JAA

Fort Devens, Massachusetts 01433-5050

Phone: DSN 256-3586/2543
(508) 796-3586/2543

**Advisory
Council On
Historic
Preservation**

1043
7/6

The Old Post Office Building
1100 Pennsylvania Avenue, NW, #809
Washington, DC 20004

July 5, 1994
VIA FACSIMILE

Honorable Joshua Gotbaum
Assistant Secretary of Defense for Economic Security
Room 3D854
The Pentagon
Washington, DC 20301

RE: Proposed 32 CFR Parts 90 and 91
Revitalizing Base Closure Communities and Community
Assistance (Interim Final and Proposed Rules)

Dear Mr. Gotbaum:

The Advisory Council on Historic Preservation has reviewed the referenced Interim Final and Proposed Rule. We have a number of comments, which are enclosed (Enclosure). However, it may be useful to provide you with a context for these comments.

The Council, an independent Federal agency created by the National Historic Preservation Act of 1966 (NHPA), is the major policy advisor to the President and Congress on historic preservation matters. Among other mandates, the Council reviews the policies and programs of Federal agencies and makes recommendations to improve the effectiveness, coordination, and consistency of those policies and programs with the purposes of the NHPA.

A key provision of the NHPA, Section 106, requires Federal agencies to take into account the effects of their undertakings on historic properties, and to afford the Council a reasonable opportunity to comment with regard to such undertakings. The Council has promulgated regulations found at 36 CFR Part 800, "Protection of Historic Properties" for the implementation of Section 106 under its statutory authority.

We have two major concerns about the interim final and proposed rules, which relate to the effects of base closure and community assistance on historic properties.

**COMMENTS ON INTERIM FINAL & PROPOSED RULES,
32 CFR PARTS 90 AND 91, REVITALIZING BASE CLOSURE
COMMUNITIES
AND COMMUNITY ASSISTANCE**

Advisory Council on Historic Preservation

General Comments

Broadly, the major components of the community reinvestment program present both challenges and opportunities to address historic preservation issues:

1. Job-centered property disposal and the related rules that encourage quick sale and parcellization must be coordinated with the requirements of Sections 106 and 110 of the National Historic Preservation Act and the Council's regulations.
2. Fast-track environmental clean-up means the services must accelerate compliance with Section 106. To date, such compliance has been sporadic at best. DoD should adopt a department-wide guideline that ensures that the services recognize that environmental remediation actions are undertakings subject to Section 106.
3. Transition coordinators should be made aware of Section 106 responsibilities so that they are able to assist communities and reuse committees in participating in the Section 106 review process and in ensuring that service compliance is completed in a timely manner.
4. Larger economic development and planning grants to communities can be used to facilitate responsible adaptive use of historic properties on installations and provide financial assistance for historic preservation planning.

Specific Comments

90.3(c): This section discusses the base realignment and closure cleanup team which oversees the environmental cleanup program at the installation. Since these teams are directly responsible for coordinating the cleanup that results in the transfer of property to the community, these teams must also be accountable for ensuring that environmental remediation activities are reviewed pursuant to Section 106 and the Council's regulations. In the Council's experience, compliance with Section 106 for remediation activities has been sporadic.

91.7(e)(5)(i): The Council recommends that the statement, "Description of the property to be conveyed" include *"including information about the properties eligibility for listing on the NRHP"*.

91.7(g): This section deals with leasing properties before disposal. The Council reminds DoD that while leasing historic properties is fully consistent with the provisions of Section 111 of the NHPA, leasing is an undertaking as defined by NHPA. To assist DoD in rapid approval of interim leasing of historic properties, the Council is committed to developing with DoD standard leasing provisions. However, the interim final rule should clarify the departments or entities to which the military services could redelegate their leasing authorities.

91.7(h)(2): This section addresses the disposition of personal property. Some types of personal property identified in this section, i.e. equipment, ships, etc. may be individually eligible for the NRHP or may contribute to a real property's eligibility (machines inside ammo plant). The Council strongly recommends that DoD establish procedures for determining, prior to disposal, if personal property contributes to the eligibility of historic real property and, thus, whether its disposal is an undertaking subject to the provisions of Section 106 of the NHPA.

91.7(h)(8)(i)(3): This section sets forth the minimum levels of maintenance and repair for property vacated by the military services, but prior to transfer. For historic properties, decisions regarding maintenance are undertakings. Accordingly,

the following statement should be revised to read, "The initial minimum level of maintenance and repair to support non-military purposes shall be determined during consultation *among* the Military Department, the redevelopment authority, the State Historic Preservation Officer, and the Advisory Council on Historic Preservation, where historic properties are present."

91.7(h)(8)(i)(3): The Council reminds DoD of the Section 110 requirements for Federal agencies to assume responsibility for the preservation of historic properties which are owned or controlled by such agencies. This requirement, in our view, is fully consistent with the objectives of the proposed rules to transfer Federal properties in the same condition at the time of closure.

91.7(j)(3)(i): This section addresses provisions for the transfer of real property to persons paying the cost of environmental restoration activities. The Council recommends the following statement to be revised as follows:

"An agreement to transfer may be executed with any person provided that person can demonstrate to the satisfaction of the Secretary concerned the ability to adequately perform all required environmental clean-up, waste management and environmental compliance activities, *and any historic preservation responsibilities, where applicable.*"

91.7(j)(3)(F)(v): The proposed rule should require the Secretary to disclose the requirement to comply with the provisions of Sections 106, 110, and 111 of the National Historic Preservation Act.

BKAC

LAW OFFICES
HONIGMAN MILLER SCHWARTZ AND COHN
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
2290 FIRST NATIONAL BUILDING
DETROIT, MICHIGAN 48226-3583

HILIP A. GRASHOFF, JR.
DIRECT DIAL NUMBER
(313) 256-7973

TELECOPIER (313) 962-0176

LANSING, MICHIGAN
WEST PALM BEACH, FLORIDA
TAMPA, FLORIDA
ORLANDO, FLORIDA
HOUSTON, TEXAS
LOS ANGELES, CALIFORNIA

1077
7/7

June 29, 1994

Office of the Assistant Secretary of Defense
for Economic Security
Room 3D854
The Pentagon
Washington, D. C. 20301

Re: Proposed Rule - 32 C.F.R. Part 91, Section 91.7 (j)

Gentlemen:

Please be advised that this firm is counsel to Sands Township, Michigan ("Township") and on its behalf, submits these comments in opposition to proposed Rule 32 C.F.R. Part 91, Section 91.7 (j), which would govern the transfer of real property or facilities available as a result of a base closure to persons paying the cost of environmental restoration activities on the property.

Under the proposed rule, the Department of Defense would be able to transfer property for the cost of clean-up to persons who agree to perform environmental restoration. The proposed rule provides that "an agreement to transfer may be executed with any person, provided that the person can demonstrate to the satisfaction of the Secretary concerned the ability to adequately perform all required environmental clean-up, waste management and environmental compliance activities."

The Township is the site of a significant portion of K. I. Sawyer A.F.B. which is in the process of being closed. It has been determined that there are in excess of twenty (20) sites of contamination as defined by the Michigan Environmental Response Act, M.C.L.A. Section 299.601 et seq., as amended, each of which needs to be fully remediated and most of which are located in the Township. It is the concern of the Township that the proposed rule will not sufficiently protect the resources and residents of the Township in that the definition of the "considerations" which the secretary of the military department concerned may consider "appropriate" to protect the interests of the United States, may not be compatible with the local interests of the Township or its residents. While the proposed rule defines these "considerations" to include continued oversight and access to the property by federal, state and local regulatory agencies, land use limitations and provisions requiring a bond or other form of financial assistance, the Township believes that in cases where the harm to the environment over the years

Office of the Assistant Secretary of Defense

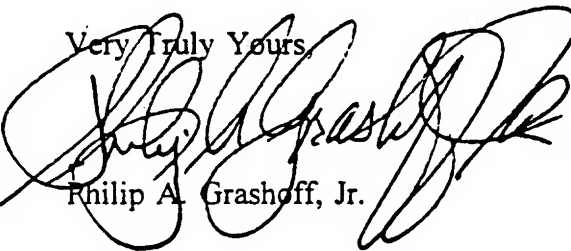
June 29, 1994

Page 2

has been significant, and in many instances, almost irreversible, there must be more certain and detailed directions given to the secretary, as to what might be "appropriate" under the circumstances, including mandatory financial assurances by bond, cash or otherwise, in order to fully cover the cost of remediation. As presently proposed, the rule affords too much discretion in the secretary of the military department concerned, without local input. Thus, in the Township's view, the proposed rule insufficiently protects the local municipality and its constituents, particularly if the property reverts to the municipality after the person agreeing to clean-up the site goes bankrupt or refuses to pay for the required remediation for any reason.

Based upon the forgoing, the Township objects to the proposed Rule 32 C.F.R. Section 91.7 (j), in that it does not provide adequate assurances for the local municipalities that the environmental harm caused by the military will be appropriately and fully remediated without impact or cost to the local community.

Very Truly Yours,

A large, stylized handwritten signature in black ink, appearing to read 'Philip A. Grashoff, Jr.', is written over the typed name.

Philip A. Grashoff, Jr.

PAG/ch

cc: Earl Yelle, Supervisor, Sands Township, Michigan

DET03/24602 1

**Comments on the Interim Rule,
Implementing Title XXIX Of The
National Defense Authorization Act for FY94**

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Florida Defense Conversion and Transition Committee
Environmental Sub-Committee
Dr. Charles A. Hall, Chairman

Page: 16157
Column: 2
Paragraph: PART 91 .. [AMENDED]

Recommended Changes:

Part 91 could be clarified to state that often times the cleanup may not be for a long period of time .. especially where the demolition of a building might be required to achieve the cleanup. It will be the community's intent to use facilities for some period of time prior to eventual remediation.

Why:

Contamination often cannot be removed unless the foundation, flooring, etc., are also removed. Furthermore, contamination may be contained in ductwork, etc., that is intended for future use as part of the facility. In many cases, it could be scores of years before the eventual cleanup will take place.

I believe this rule could be clarified to facilitate the transfer of the property and the commitment to eventually perform the cleanup activities. The present value of the cleanup funds could be established and considered during the financial obligations for the transfer.

Name: Dr. Charles A. Hall, Environmental Sub-Committee Chairman
Address: Martin Marietta Specialty Components, Inc.
P.O. Box 2908
Largo, FL 34649-2908
Phone: (813) 541-8007

B-7

FROM

TO 97036951493

07/05/1994 12:07

P.02

Mark Klaiman
[REDACTED]

June 24, 1993

Office of the Assistant Secretary
of the Defense for Economic Security
Room 2D854
The Pentagon
Washington, D.C. 20301

1076
7/7

Re: Comments on Proposed Rule
Section 2908 of the Defense Authorization Act
April 6, 1994 (59 Fed. Reg. 16157)

Dear Sir or Madam:

The following are my comments on the Department of Defense's ("DOD") proposed guidance to implement section 2908 of the National Defense Authorization Act for Fiscal Year 1994:

The Proposed Rule attempts to establish a mechanism by which portions of closing military installations could be transferred to the private sector more expeditiously than is currently taking place. The Proposed Rule would allow the DOD to transfer contaminated portions of closing military installations for the cost of cleanup to persons who agree to perform the environmental restoration if the cost of such restoration exceeds the estimated value of the property to be transferred.

A significant problem with the Proposed Rule is that it provides no justification as to how transfers contemplated by the Proposed Rule will be completed in a manner that does not violate Section 120(h) of CERCLA. CERCLA section 120(h)(3) provides that prior to the transfer by deed of a parcel on which hazardous substances were stored for one year or more, known to have been released or disposed of, that the United States must provide a covenant that "all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before that date of such transfer." The phrase "has been taken" is defined in CERCLA section 120(h)(3) to mean "the construction and installation of an approved remedial design has been completed and the remedy has been demonstrated to the Administrator to be operating properly and successfully." It is unclear how transfer would be expedited when compliance with this provision is required. For example, if a buyer wishes to purchase a parcel with contaminated ground water beneath the parcel, 120(h)(3) would prohibit the consummation of such transfer by deed until after the design and construction of a pump and treat system. At many closing installations this date could still be many years in the future.

In addition to the major deficiency noted above, there is a series of implementation essentials the Proposed Rule fails to address:

1. The transfer of closing military installations pursuant to the Proposed Rule is premised on the notion that one can calculate the cost of cleanup. Past practices at military installations indicate that the DOD is unable to accurately calculate such costs. This issue may arise, for example, at installations where the selected remedy is long term pumping of ground water and it is unclear how long such pumping must continue.

2. The transfer of property pursuant to the Proposed Rule is contingent on an "estimate of the value of the base." Should the estimated cost of cleanup exceed the estimated value of the base the buyer must make up the difference. This provision is vague with regard to at least four issues:

- a) If the transfer includes only a portion of the closing installation, is the value of that portion of the installation used in the comparison or is the value of the entire base used?
- b) Is the estimated value of the base the current estimated value (i.e., pre-completion of the CERCLA cleanup) or the future value of the base (i.e., post-completion of the CERCLA cleanup)?
- c) The estimated value of the base must exceed the cost of cleanup in order for the buyer not to have to make up the difference. Does "cost of cleanup" mean the costs incurred by the buyer to complete the cleanup after receiving the property or the total costs of cleanup (i.e., including both costs incurred by the DOD prior to transfer and cost incurred by the buyer subsequent to transfer)?
- d) Who decides the estimated value of the base and the estimated cost of the cleanup? If the estimated numbers are inaccurate will the buyer be obligated to pay more later/will DOD refund some money to the buyer?

3. Prior to transfer, the buyer must demonstrate "the ability to adequately perform all required environmental clean-up, waste management and environmental compliance activities." This provision is vague with regard to at least three issues:

- a) The Proposed Rule provides no indication as to how a buyer would demonstrate such an ability. (e.g., financial capability, technical expertise, compatibility with existing remedial activity, etc.)

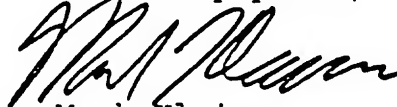
- b) If a buyer were purchasing only a portion of a closing military installation, the Proposed Rule provides no guidance as to the role and responsibility of the buyer with regard to clean-up activities underway and/or contemplated by the DOD, or by other buyers of a different portion of the base, on the remainder of the installation. For example, how would the DOD ensure the compatibility of multiple remedial actions being performed by various buyers?
- c) The Proposed Rule does not address how clean-up tasks not identified at the time of transfer would be addressed. Thus it is difficult to ascertain how a buyer would demonstrate the ability to complete cleanup tasks not yet identified. This issue is complicated by the requirements of section 120(h)(3)(B)(ii), which provides that any additional remedial action(s) found to be necessary after the transfer shall be conducted by the United States. The 120(h)(3)(B)(ii) requirements make it unclear if: (i) the buyer would be obligated to perform any future cleanup tasks; or (ii) the buyer would be obligated to perform all non-remedial cleanup tasks (i.e., additional removal actions, including remedial investigation/feasibility study; RCRA corrective action).

4. The Proposed Rule states that a buyer of property pursuant to this provision must stipulate that the buyer will meet all environmental restoration, waste management and environmental compliance activities required under Federal and State laws, administrative decisions, agreements (including schedules and milestones) and regulatory concurrences. It is unclear how this provision would be implemented at those closing military installations on the National Priorities List which have Interagency Agreements ("IAG") with EPA pursuant to CERCLA 120. These IAGs traditionally include enforceable schedules and stipulated penalties for failure to meet such schedules. The transfer of the property from DOD to the buyer will be perfected via a contract, thus the remedies available should the buyer not perform the cleanup tasks required would be those available for breach of contract (i.e., damages or specific performance). EPA would not be a party to this contract nor, arguably, a third party beneficiary of this contract; thus EPA would not be able to bring an action for breach of contract should the buyer not perform the necessary response actions. Because DOD has binding obligations with EPA, via an IAG, independent of DOD's contract with a buyer, the Proposed Rule (especially when coupled with EPA's inability to enforce the contract) would appear to make DOD responsible for payment of stipulated penalties should the buyer fail to meet an enforceable schedule in an IAG.

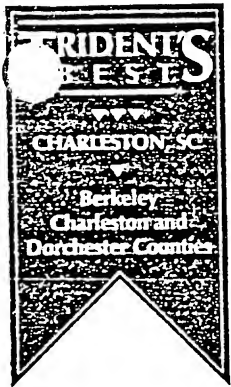
5. Section F of the Proposed Rule appears to be drafted in a manner which would allow the military to avoid its obligations to address environmental concerns at closing military bases. As drafted, section F would appear to allow the military to make a binding agreement to transfer property in the future if the buyer agrees to and completes all remedial action necessary to protect human health and the environment. While such an agreement would negate the delay in use of the property by a third person when long-term clean-up was necessary, permitting persons to enter into the process of cleaning-up closing military installations after much of the investigative work has been completed could delay cleanup of such installations. At closing installations with IAGs such delays would then subject the Department of Defense to stipulated penalties.

Thank you for the opportunity to provide comments on the proposed rule. I look forward to receiving a full and comprehensive response to my comments.

Sincerely yours,



Mark Klaiman



June 17, 1994

PR

1024
23 June

Mr. Joshua Gotbaum
Assistant Secretary
3D814, The Pentagon
Washington, DC 20301-3300

curity

Dear Mr. Gotbaum:

Attached you will find Trident's BEST Committee's comments concerning your *Interim Final Rule for Implementing Title XXIX of the National Defense Authorization Act for FY94*.

122 King Street
Suite 201
Charleston, SC 29401
(803) 724-0670
Fax (803) 724-0674

The essential feature of President Clinton's Five-Part Community Revitalization Program was its emphasis on job creation. Likewise, Congress, in passing Senator Pryor's amendment, gave high priority to local communities in disposition of real and personal property at closing military installations. We believe that incorporation of our comments would bring your Final Rule closer to the original intent of both the President and Congress. Specifically, the sections on Jobs-Centered Property Disposal and Transfer of Personal Property must be changed. These two sections, as currently written, are impediments to local economic development and job creation efforts. We look forward to your help in bringing about these necessary changes.

Should you or your staff have any questions concerning these comments, please contact Ms. Madeleine McGee (BEST Chief Operating Officer) or myself at telephone number (803) 724-0670.

Sincerely,

R. Keith Summey
Chairman and Chief Executive Officer

cc: Deputy ASD Bayer (Economic Reinvestment and Base
Realignment and Closure)
Deputy ASN Cassidy (Conversion and Redevelopment)
Mr. Paul Dempsey (Director, Office of Economic Adjustment)
Ms. Jane English (President, NAID)
Mr. David Lane (Director to the National Economic Council)
The Honorable Joseph P. Riley, Jr. (Mayor of Charleston)

Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward comments to:

Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Trident's B.E.S.T. Committee, Charleston, SC
(Activity/Location/Community/Installation/Group)

Page 16157
Column 2
Paragraph 91.7 (j)

Transfer of real property or
facilities to persons paying
The cost of environmental
restoration activities on the
property.

Recommended Changes:

A requirement for job-creation should be added to this section.

Why:

As this section is currently written, property could be conveyed
without creating or retaining a single job in the local
community.

Name: Madeleine S. McGee, Chief Operating Officer
Trident's BEST Policy Committee
122 King Street, Suite 201
Charleston, SC 29401

Phone: (803) 724-0670 Fax: (803) 724-0674

May 18, 1994

2/9/94 '97

To: Office of Assistant Secretary of Defense
for Economic Security
Room 3 D 854, The Pentagon
Washington DC 20301

Re: Section 2908 - National Defense Authorization Act, 1994
Rule 32 CFR, Part 91

Dear Asst. Secretary of Defense,

We have studied Rule 32 CFR Part 91 and have drawn the following conclusions and recommendations.

We are opposed to the rule change that allows land and properties (available from base closures) to be transferred to purchasing parties before the military cleans up the contamination caused by use for military purposes.

1. It is the responsibility of the DOD and DOE to keep the commitments made when they began lease agreements, i.e. to return the local and State lands to the environmental condition they were in upon reception. This includes surface and ground water, base land and any surrounding areas used by the military divisions.

2. Anything less than a comprehensive plan for cleanup that is centrally managed will cause extensive delays in reuse. Parcelization will not work, since groundwater contamination flows unrestricted under many parcels. Nor does soil contamination stop at a specific piece of property to be purchased. Timelines or specific uses and compliance requirements because of newly used chemicals may widely vary.

3. The soaring costs and the difficulties of cleanup mandate that all contaminated sites be cleaned up by the highest level of government. Only the Pentagon and Energy Department budgets could afford or manage the contractual arrangements that must be let to remedy the serious problems. The burden should not be laid on any other governing body or industry/business while they are initiating new ventures with designated goals and timelines that will keep whole communities from collapse. The Pentagon has taken advantage of communities and neighborhoods for many decades. They have used their resources, infrastructures, schools and tax base without contributing property and income taxes. With base closures each locale should be recipients of the restored base properties, buildings, and acreage without further costs, health hazards, and damages. The base closures sever thousands who were employed at the military installation who will remain in the community. These employees should be the first employed in the environmental cleanup and monitoring and in the caretaker status.

We hope these comments will be entered into the public analysis and that cleanup will be properly funded, technically sound, and comprehensively carried out. Thank you.

Sincerely,

Dr. Judith Platte, O.P.
Dr. Carol Gilbert, O.P.

Barry W. Poulson
Department of Economics
University of Colorado
Boulder, CO 80309

#1100

DRK

J

May 9, 1994

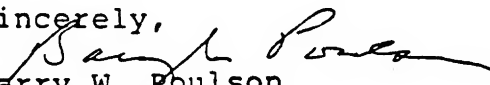
02 JUN 1994

Assistant Secretary of Defense (Economic Security)
The Pentagon, Room 3D814
Washington, D.C. 20301-3300

Dear Assistant Secretary of Defense,

I am responding to the DOD Interim Rule for Revitalizing Base Closure Communities, and the proposed rule under the Base Closure Communities Assistance Act published in the News Release dated April 6, 1994. Enclosed are my comments.

Sincerely,



Barry W. Poulson
Professor of Economics, University of Colorado
Senior Fellow, Independence Institute
Adjunct Scholar, Heritage Foundation

to create an instant ghetto.

Another negative externality is found in the plan for disposition of asbestos and hazardous wastes accumulated on the Lowry land. Here the LEAP plan is constrained by DOD rules that require that these problems be addressed by the military before the land is turned over for nonmilitary use. This has been one of the causes for the long and costly delays in base closures in the past. Until these environmental problems are corrected at Lowry they will have negative effects on the value of the assets as a whole. A private investor would have an incentive to address these problems as rapidly as possible to the extent that this was a precondition for developing the assets of the base as a whole.

An Alternative Proposal To Privatize Lowry Air Force Base

Failure to follow the procedures proscribed in the new DOD guidelines is the fatal flaw in the LEAP plan. The LEAP report recognizes that a strong economy has significantly increased the potential for private sale of Lowry assets. The report cites evidence of strong sales of residential property in the Denver market as evidenced by both prices of homes and numbers of transactions. Based upon this evidence we would expect that LEAP planners would follow the guidelines for base closures where a ready market for Lowry assets already exists. That would involve soliciting interest from the private sector with the objective of



July 1, 1994

1065
7/6

Office of the Assistant Secretary
of Defense for Economic Security
Room 3D854, The Pentagon
Washington, D.C. 20301

Re: The Rhode Island Port Authority and Economic Development Corporation's
Comments to the Department of Defense Interim Final Rule ("IFR") and Proposed
Rule ("PR") (the "Comments")

Dear Sir/Madam:

Attached are our comments to the "IFR" required by Section 2903 of the National Defense Authorization Act for Fiscal Year 1994 and the PR required by Section 2908 of the National Defense Authorization Act for Fiscal Year 1994.

The attached point-by-point comments address all the concerns. Please review their content and if you have any questions, do not hesitate to contact me.

Very truly yours,

George A. Prete, (of)

George A. Prete
Associate Director
Property Management

GAP/gh
Attachments

cc: Governor Bruce G. Sundlun
Senator Claiborne deB Pell
Senator John H. Chafee
Congressman Ronald K. Machtley
Congressman John F. Reed
Paul L. Barrett, Executive Director
Raymond Fogarty

oasdes

(2) and a "narrow proposed reuse" definition in the section on Economic Development Conveyances. Neither definition indicates that the surplus base property is actually being transferred in its "as-is", "where-is" condition, often without local zoning or adequate infrastructure being in place.

Specifically, fair market value of a particular piece of property should be based upon its "as-is," "where-is" condition based on current local zoning and proposed use of the property, adjusted by offsetting the estimated value of the infrastructure improvements to support the proposed use and the condition of surrounding properties, in a competitive and open market under all conditions requisite to a fair sale with the buyer and seller each acting prudently and knowledgeably, assuming the price is not affected by undue stimulus. The effect of the base closure on the market shall be taken into account in estimating fair market value including the restrictions that would be put on such property and value attached to that property based upon the Base Reuse Plan.

B.

Port Authority Comments

Department of Defense Proposed Rule

Listed below are our comments to various sections of the Proposed Rule which provides guidance required by Section 2908 of the National Defense Authorization Act for fiscal year 1994 which provides authority for the Secretary of Defense to transfer real property and facilities available as a result of a base closure, to persons paying the cost of environmental restoration activities in the property.

1. §91.7(j)(1) - As presently drafted this sub-section allows the Department of Defense to transfer "a property" for the cost of clean-up to "persons" who agree to perform the environmental restoration on such property. The sub-section then states however that "if the estimated value of the 'base' exceeds the cost of clean-up, the buyer shall make up the difference." As an initial comment, "persons" should be clearly defined to include the Local Development Authority such as the Port Authority. Secondly, it is inconsistent to state that a "property" shall be transferred for the cost of clean-up of such property and then state that if the estimated value of the "base" exceeds the cost of clean-up the buyer shall make up the difference. Presumably the estimated value of the "base," if the "base" is defined to mean the entire Facility, would be higher than any individual piece of property irregardless of the cost of such clean-up. Therefore, this section should be redrafted so that if the estimated value of the "property" (not the "base") exceeds the cost of clean-up of such "property" the buyer shall make up the difference. In this respect the estimated value of a "property" should be the same definition of fair market value as indicated above with respect to the Interim Final Rule.

2. § 91.7(j)(2) and (3) - The local authority should have the ability to influence and object to the sale of any land in accordance with these sub-sections. This would insure that any potential sale would be in conformance with the Local Redevelopment Plan as well as allow the local agency to object to the sale to a person whom the local agency considers as not having adequate resources to fully remediate the environmental problems at the particular property in order to fully use such property in accordance with the Local Redevelopment Plan. In particular, the reuse of a certain parcel or property may require substantial restorations and construction thus exposing asbestos and lead paint and therefore increasing the cost of environmental remediation.

Therefore, the additional environmental remediation associated with any such contemplated reuse and construction needs to be calculated into the total cost of the environmental clean-up and restoration of the particular property when determining whether the particular entity purchasing such property has the resources to fully comply with such environmental restorations.

Moreover, there should be a new provision added to sub-section (3) which would provide that should the acquirer of such property fail to fully environmentally restore such property it would be the responsibility of the applicable military department to complete such environmental restoration. This would avoid the situation of the local agency incurring environmental restoration costs in order to clean up or complete any clean up begun by any now defunct acquiring entity.

3. **§91.7(j)(3)(v)(B)** - This sub-section indicates that before executing any agreement for the transfer of property, the Secretary of Defense must, among other things, conduct an environmental base line survey to determine whether there are any impediments to the ultimate transfer of the property. To the extent that an environmental base line survey has already been conducted, can such environmental base line survey be utilized to satisfy the condition of this particular sub-section, or would another environmental base line survey be required to be conducted to satisfy this requirement, thus leading to needless repetition and waste of resources as was the case with the repeated McKinney Act Screening Process.

Pacific Studies Center

222B View Street, Mountain View, CA 94041 USA

415/969-1545, Fax 415/968-1126

TO: Office of the Deputy Assistant Secretary of Defense (Economic Security)
FROM: Lenny Siegel
SUBJECT: Proposed Rule: 32 CFR, Part 91.7(j)
DATE: June 30, 1994

The proposed rule does a reasonable job of implementing what I believe is a risky concept, the transfer of contaminated portions of closing/closed military bases. I would like to suggest a few safeguards to ensure that cleanup is conducted to community satisfaction. Underlying my concern is a recognition that in many cases the "community" interest likely to receive contaminated property is not the same "community" primarily concerned about the environmental or public health consequences of that contamination. I do not believe that the proposed rule, as currently written, provides those safeguards.

- 1) Any proposal to transfer such property should be duly noticed to the affected community, and the public should be offered the opportunity to comment on the proposal both at the conceptual stage and before finalization of the transfer. Otherwise, the public as a whole may be exposed to an avoidable risk without any chance of influencing the outcome.
- 2) Should potential land uses be used in selecting cleanup standards or remedies, that potential land use should be determined in consultation with the community as a whole, and not just the proposed recipient. Otherwise, it is likely that some recipients would propose land uses designed, in part, to minimize their cleanup requirements, even though in the long run the community as a whole would like to consider other uses for the property.
- 3) All of the public participation elements of the Fast-Track Cleanup program, including the functioning of Restoration Advisory Boards, should continue to apply to property transferred under this Section.



PETE WILSON
GOVERNOR

State of California

GOVERNOR'S OFFICE OF PLANNING AND RESEARCH

1400 TENTH STREET
SACRAMENTO 95814



LEE GRISSOM
DIRECTOR

June 15, 1994

23 JUN 1994

Mr. Joshua Gotbaum
Assistant Secretary of Defense
(Economic Security)
The Pentagon, Room 3D814
Washington, D.C. 20301-3300

Dear Mr. Gotbaum:

**RE: Comments on The Interim Rule Implementing Title XXIX of the
National Defense Authorization Act for FY 1994**

Enclosed are detailed comments, in the format requested by the Department of Defense (DoD), on the Interim Rule. These comments represent the combined views of all departments of the executive branch for the State of California. They were compiled from the comments received from all departments attending the May 13 workshop in San Francisco.

We take strong exception to the notion of "test marketing" properties to determine if a "ready market" exists. We believe that this procedure will undermine efforts of communities to develop consensus plans and that, absent zoning and other entitlement, any indications of interest for properties are premature and speculative. Moreover, the rules governing this procedure are not based on any provisions of the Pryor Amendment. We believe, therefore, that DoD has exceeded its authority in promulgating this rule.

Most other provisions of the Interim Rule are reasonable attempts to implement the Pryor Amendment. We have offered a number of suggestions which we believe will further the objectives of DoD and Congress. Two provisions are of particular note. First, there is a need to more clearly define "fair market value" and "net profit" for purposes of negotiated sales and economic benefit conveyances to include a fair share of the costs of basewide infrastructure, planning, property maintenance, and security. Second, the standard for exempting properties from subsequent McKinney Act screening should be broadened.

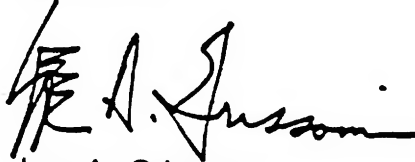
We have suggested only minor technical amendments to 32 CFR Part 91, Paragraph (j) because we believe that implementation may be delayed due to continuing consultations between DoD and EPA and because we believe that no

Mr. Joshua Gotbaum
June 15, 1994
Page Two

rational private party would wish to avail itself of the one-sided provisions of the Interim Rule. We suggest that DoD may wish to reissue the Interim Rule after legal issues relating to transfer of contaminated property are resolved. At such time, we recommend that DoD develop an equitable means of allocating costs and liabilities between the federal government and any persons willing to share the cost of environmental restoration.

We hope that these recommended changes are helpful to you as you consider revisions to the Interim Rule. I look forward to reviewing the Final Rule when it is issued next fall.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee A. Grissom". The signature is stylized with a large initial "L" and a long, sweeping horizontal stroke at the end.

Lee A. Grissom
Director

cc: National Association of Installation Developers
Base closure community reuse authorities

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16158

Column 1

Paragraph 91.7(i)(3)(F)

Recommended Changes:

ADD the following at the end of the paragraph:

". . . and the remedy has been demonstrated to the Military Department concerned, ~~and EPA,~~
and the appropriate State official to be operating properly and successfully. . ."

Why:

This provides opportunity for state environmental officials to have input into the remediation decision and provide regulatory input for sites which are not listed on the NPL.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170

Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: Governor's Office, State of California

Page 16158

Column 1

Paragraph 91.7(j)(3)(F)(iv)

Recommended Changes:

The term "fair market value" must be defined in the definitions section.

Why:

This term must be defined to ensure the same method and/or procedure is used on each property to avoid any failure to treat each purchase uniformly. See comment number 8 for additional observations on defining the term and needed inclusiveness of costs.

Contact Name: Ben Williams
Contact Address: 1400 Tenth Street
Sacramento, California 95814

Contact Phone: (916) 322-3170

YIM, OKUN & WATSON

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

3745 WHITEHEAD STREET, SUITE 101

MATHER FIELD

SACRAMENTO, CALIFORNIA 95655

TELEPHONE (916) 443-6500

TELEFAX (916) 443-8156

RANDALL A. YIM
LORI T. OKUN
KELLY F. WATSON

1078
7/7
OF COUNSEL TO
PARKER, MILLIKEN, CLARK, O'HARA & SAMUELIAN
A PROFESSIONAL CORPORATION

July 6, 1994

VIA FACSIMILE (703) 695-1493
AND U. S. MAIL

Joshua Gotbaum
Assistant Secretary of Defense (Economic Security)
Room 3D854
The Pentagon
Washington, D.C. 20301-3300

Re: Comments on Pryor Regulations: Interim Rules
For Revitalizing Base Closure Communities

Dear Assistant Secretary of Defense Gotbaum:

Thank you for this opportunity to comment on the Pryor Interim Rules. It has been my privilege to be actively involved in military base closure issues in California. I am a member of the California Military Base Reuse Task Force, appointed by California Governor Pete Wilson as the member with expertise in toxic clean-up. This Task Force was formed to examine the base closure and reuse process and recommend changes to make the process more successful and efficient. Our report to the Governor was issued in February 1994. As private environmental counsel, I also provide legal services to the County of Sacramento, California, for the closure and reuse of Mather Air Force Base, a BRAC I base closure and a Superfund site. I also provide legal services to the East Bay Conversion and Reinvestment Commission regarding the closure of the Alameda Naval Air Station complex, a BRAC III closure.

I have several specific comments which may be of assistance to you:

1. Jobs - Centered Property Disposal

The interim rule should be specifically modified or clarified to recognize the need of local redevelopment authorities (LRA) to retain certain property interests in real property marketed directly by the military departments. Specifically, before the military directly sells real property to third parties, it should examine the need of the LRA for

• ENVIRONMENTAL • MILITARY BASE REUSE • LITIGATION • EMPLOYMENT •

Joshua Gotbaum
July 6, 1994
Page 2

retained property rights, such as easements, to support redevelopment and reuse of the remainder of the military base. These easements would include, without limitation, easements for changes in the roadway patterns, rerouting of utilities, flood control or flood retention, access for remediation and redevelopment activities, and noise overflight. Sales by the military should specifically retain easements or other property interests necessary to support such reuse activities of the LRA.

The interim rule states that throughout the job center property disposal process, the military will make maximum effort to give community considerations a high priority. Most LRAs will consider the base as an entire functional unit, and develop a comprehensive reuse plan for the entire base, in attempting to integrate the base into the community at large. As a result, most LRAs will redesign roadways and other access to the base. Typically, military base roadways were designed to limit access or facilitate access internally without linkages to the outside community. Thus, a substantial rerouting of roadways is typically necessary. As a related example, the need to upgrade inadequate infrastructure will require, in many circumstances, the rerouting of utility lines, which not uncommonly go directly under buildings or areas to be developed. Finally, those bases with airports must not be constrained with the need to acquire noise or overflight easements to support the airport activities.

It was not intended that the military job-centered property disposal process would "cost" the LRAs. These costs could potentially be the costs of acquiring easements following the sale by the military, either directly or via the power of eminent domain. The threat of lawsuits alleging inverse condemnation could also be alleviated by retention of specific easements by the military for the benefit of the LRA, such as noise or overflight easements.

2. Economic Development Conveyances

Section 91.7(e)(4) requires the military to be fully responsible for the completion of an appraisal or other estimate of real property fair market value prior to making an economic development conveyance. This appraisal or estimate of value shall be based on the proposed reuse of the property. This process could potentially be very helpful in assisting in cost benefit decision making in the selection of environmental contamination remedial alternatives.

Joshua Gotbaum

July 6, 1994

Page 3

Current law does not require the military to select that environmental remediation alternative which maximizes reuse flexibility, market value and economic potential. In a private transaction, the owner or operator of property upon which contamination is located, will conduct remediation activities to balance the cost of remediation against the enhancement of market value or flexibility for reuse of the property following remediation. Such cost benefit mechanisms do not exist in the military base closure setting, where the majority of base real property will be transferred from the military to the local communities without consideration, or for less than fair market value consideration, under the public benefit conveyance process or the economic development conveyance process. As a result, there is little or no "market" incentive for the military to choose remedial alternatives, which may be more costly, but will significantly enhance reuse potential. Instead, the military typically groups its remediation activities into "operable units" to take advantages of economies of scale. These operable units are not necessarily consistent with the need of local communities to bring specific parcels of property into productive reuse at the earliest possible date.

Current law does not dictate a single "correct" or "right" remediation alternative for a particular contamination. Different remediation techniques exist, and variables include cost, duration of remedial activities, disruption to surface uses, level of contamination following remediation, interim health risks posed, the condition of the property following remediation activities, and most importantly, the remedial goal or standard to be achieved. These variables translate to differing limitations on land use following remediation.

Remediation goals may vary depending upon proposed land uses. Remediation standards, particularly those for soil, are typically based upon health risk analyses. Disputes may exist or arise regarding health risk exposures or the severity or likelihood of such exposures. The classic question, "how clean is clean," must be asked in virtually every remediation decision.

It is often the case that current environmental regulations and statutes allow several remedial alternatives to be identified and any one could be approved by the regulators. The military must then select from those alternative remedies identified during the remedial investigation/feasibility study phase.

Joshua Gotbaum

July 6, 1994

Page 4

No mechanism currently exists to require selection of that remedial alternative that best suits reuse needs. No mechanism currently exists to perform or assist in the performance of the cost benefit analysis to enable policy makers to decide whether to expend additional remediation dollars to enhance reuse or market potential. Current law neither requires the selection of remedies which enhance reuse, nor allows the military to justify the extra expenditure under its remediation program. Further, no mechanism exists to incorporate a cost benefit approach into the analysis of competing remedial alternatives and to factor such analysis into the final selection of remedies.

One of the main obstacles to use of a cost benefit approach, is the inability to "quantify" the enhancement to reuse caused by the selection of a particular remedy, which imposes less land use restrictions. The requirement that the military take responsibility and complete an appraisal or estimate of fair market value, pursuant to Section 91.7(e)(4), could be incorporated into the cost benefit decision making process for remediation decisions. The estimate of fair market value could analyze the "value" of property given various reuse scenarios. The limitations upon these reuse scenarios caused by remedial activities could also be assessed at this time. The resulting "differential" in market value, which may exist under particular remedial alternatives, would allow quantification and analysis using the cost benefit approach, and thereby significantly aid remediation decisions.

3. Proposed Rule: Section 2908 Transfers of Properties For the Cost of Clean-up To Persons Who Agree To Perform the Environmental Restoration

As discussed at the numerous workshops regarding the Pryor Regulations, it is difficult to imagine anyone taking advantage of the Section 2908 Property Transfers, given the limitations included in the proposed rule. However, one possible scenario with value to both the military and the local reuse authorities could exist if the rule were modified to allow contingent transfers to persons who agree to perform site assessments to characterize the environmental condition of property proposed to be transferred.

One of the major hindrances to reuse planning is the lack of available site assessment data regarding the environmental condition of property. The environmental constraints may limit reuse planning options. Unfortunately, certain areas with high

Joshua Gotbaum
July 6, 1994
Page 5

priority for reuse may not be prioritized for early site assessment, because little or no contamination is suspected.

Section 2908 could be modified to allow a contingent transfer of property to persons willing to perform the necessary site assessments. The cost of the site assessments could then be deducted from the ultimate purchase price, similarly to the deduction for the cost of environmental clean-up. However, the proposed rule would have to be modified to allow a "contingent" acquisition; that is, the acquisition should be "contingent" so that the person performing the site assessment may opt out of the transaction should the site assessment show environmental issues which preclude the proposed reuse. In any event, a site assessment would be performed, and all data should be required to be shared with the military and LRA.

In this way, Section 2908 could assist in expediting site assessment of low contamination sites with potentially high priority for reuse. This would supplement the military's budgeting process which typically targets highly contaminated areas for first assessment and clean-up.

4. General Comments

Current military base closures are unique historically and require innovative and regional solutions. Traditional real property development mechanisms, and environmental clean-up policies must be reexamined for applicability and utility given the unique nature, rate and scale of military base closures.

Innovative approaches are required because of the significant regional impact of a closing base, and the lack of traditional market forces operating to mitigate these impacts. For example, there is no willing buyer or seller. The military typically did not ask for the bases to be closed; neither did the local communities. The local community does not have the opportunity to choose

the location, the timing, or the scale of its redevelopment activities. Concepts of fair market value in private discretionary transactions must be scrutinized carefully for applicability to the base closure setting.

Joshua Gotbaum
July 6, 1994
Page 6

Traditional remediation approaches, driven by market forces, also do not apply. In a private transaction, the owner or operator of property upon which contamination is located, will conduct remediation activities to balance the cost of remediation against the enhancement of market value or flexibility for reuse of the property following remediation. Such cost benefit mechanisms do not exist in the military base closure setting where the majority of the base is transferred from the military to the local communities without consideration under the public benefit conveyance process. As a result, there is no "market" incentive for the military to choose remedial alternatives which may be more costly, but will significantly enhance reuse potential. Instead, the military typically groups its remediation activities into "operable units" to take advantage of economies of scale. Because these operable units are not necessarily consistent with the need of local communities to bring specific parcels of property into productive reuse at the earliest possible date, low risk, low level contaminated sites, despite their high reuse potential, may not be prioritized by the military remediators for investigation, assessment and remediation.

The difficulties in both environmental remediation and property disposal caused by the lack of market forces, are exacerbated by the unequal bargaining power between the military and the local communities. The military has not clearly assessed the impact of transfer of negatively valued assets upon the local community. The military must be more sensitive to understand that the real property, the associated buildings, and the infrastructure, etc. at a closing base present liabilities to local communities. In many ways, transfer of bare and undeveloped land would be preferable.

This lack of assessment by the military may drive a "take it or leave it" approach. Unfortunately, the local communities cannot afford to "leave it." The rate, nature and scale of military base closures and the impact upon the local economy, in terms of jobs lost and the impact upon land use planning of such significant tracts of land in already developed areas, forces the local community to participate. It must be actively involved in acquisition of the base property and its successful conversion. It is not correct to assert that these are discretionary acquisitions by the local community. As a result, a "take it or leave it" policy potentially forces the local community to accept onerous conditions to the transfer of property, including deferred liabilities associated with the property transferred to it. Transferred buildings containing asbestos or lead-based paint, "as is," are but a few examples.

Joshua Gorbaum
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The problems caused by the lack of market forces to moderate property disposal, redevelopment and environmental clean-up issues, exacerbated by the unequal bargaining power between the military and the local communities, dictate that novel approaches to resolving base closure obstacles be employed. It is hoped that the interim rules implementing the Pryor Amendment will be such mechanisms, and they appear to be very significant and positive first steps.

Thank you for this opportunity to provide my comments. If there are any questions, please do not hesitate to contact me.

Very truly yours,


RANDALL A. YIM

HOMEBase

The Center for Common Concerns

Via Mail and FAX

Office of the Assistant Secretary of Defense for Economic Security

Room 3D 854, The Pentagon

Washington, D.C. 20301

FAX: (703) 695-1493

RE: Comments on the Department of Defense's interim final rule that implements Title XXIX of the National Defense Authorization Act for Fiscal Year 1994, (the "Pryor Amendment" regulations)

To whom it may concern:

Homebase is a public interest law and social policy center on homelessness. The organization's primary work is in providing technical assistance, and advice and counsel to homeless providers in order to improve their level of service. HomeBase is currently the consultant to the housing committee of the East Bay Conversion and Reinvestment Commission. We have been working closely with homeless groups who are applying for property on the closing military bases through the McKinney Title V application process.

Based on our extensive research on the McKinney Title V base conversion process, we recommend that the following changes should be made to the interim regulations.

- ▶ Add to end of Section 91.7(b)(5) the Title V provision for appealing unsuitability determinations.

Title V of the McKinney act provides that property which HUD has identified as unsuitable for use to assist to the homeless "not be available for any other purpose for 20 days after the determination of unsuitability to allow for review of the determination at the request of the representative of the homeless". (42 USC § 11411(d)(3)) The corresponding regulations require HUD to notify the landholding agency that a request to review an unsuitability determination has been made, and advise the agency that it should refrain from initiating disposal procedures until the review has been completed. (See 45 CFR § 12a.4(f)(4))

This provision should remain in the interim regulations so that it appropriately tracks the HUD regulations for appealing unsuitability determinations. (45 CFR § 12a.4(f)) Thusfar, HUD has continued to follow this process, and refer to it each time publishes property available for homeless uses in the Federal Register. The administrative appeals process is necessary in instances where HUD has improperly applied its suitability criteria, or relied on incorrect or incomplete information in making its determinations. For example, a property might be declared unsuitable if it thought to be located in a floodway, when in fact the property is located in a

floodplain, but not in a floodway. Moreover, in making unsuitability determinations based on excessive deterioration, HUD overlooks the fact that deteriorated buildings can be torn down, and new buildings constructed on the suitable land underneath. The HUD process for determining suitability and publishing properties must continue to include the administrative appeal process to resolve these kinds of problems.

- ▶ Amend Section 91.7(b)(10) to specify that representatives of the homeless can enter into interim leases.

Section 91.7(b)(10) states that "surplus property may be available to any entity... as deemed appropriate by the Military Department concerned". Homeless groups should be specifically mentioned in this section as one of the entities that can enter into interim leases in order to ensure that vacated base property is being put to good use, and not laying vacant and deteriorating before final plans and uses are in place.

- ▶ Amend Section 91.7(h) to give homeless groups priority over the local redevelopment authority in receiving personal property.

The interim regulations allow the local redevelopment authority to identify personal property it wishes to retain in its redevelopment plan before homeless groups can request it. (See § 91.7(h)(1)) The justification given for this is that personal property on the bases is often useful to the redevelopment of the real property. However, the Pryor Amendment includes the Title V priority for homeless providers to receive property and buildings needed to establish their programs. Personal property will obviously be useful to homeless providers in the development of their programs. Therefore, homeless providers should be given the same priority for personal property on the bases as they are given for real property.

Homeless groups have fewer resources than the community as a whole to successfully redevelop this property. Title V is an explicit recognition by Congress that homeless groups lack resources in the local communities where they operate. The Title V priority scheme was put in place to try to remedy this problem. To undo this priority scheme by giving local redevelopment authorities first choice over surplus personal property on the bases undermines the purpose of Title V and the intent of incorporating it into the Pryor Amendment.

The Title V process as it applies to base conversion must continue to provide meaningful opportunities for homeless people in affected communities so that they in turn can resume productive roles in these communities. To this end, the interim regulations should not do anything to undermine the essential mechanisms of Title V.

If you have any questions regarding the above comments, please contact Robin Miller at (415) 788-7961 ext. 11.

Very Truly Yours,
HOMEBASE

Robin E. Miller (LFD)

Robin E. Miller
Senior Staff Attorney



ECONOMIC SECURITY

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
3300 DEFENSE PENTAGON
WASHINGTON, DC 20301-3300



24 AUG 1994

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MEMORANDUM FOR BASE TRANSITION COORDINATORS

SUBJECT: Transcript for 5 August public hearing

In addition to copies of all public comments, the transcript for the 5 August 1994 public hearing on the interim final rule is now available in the OASD(PA) Freedom of Information Act Reading Room. Interested parties can contact the reading room on (703) 697-1160. FOIA will arrange for access to the reading room, located in room 2C757 in the Pentagon.

The hearing transcript is approximately 300 pages long. There is a copier available for public use for a nominal charge.

If you have questions, my point of contact is Damon Hemmerdinger. He can be reached on 697-5743/45. Thank you.

Helen F. Forbeck
Senior Professional Advisor
DoD Base Transition Office

cc:
BTO staff



Stenographic Transcript of
HEARINGS

~~ORIGINAL~~

Copy

THE LOGISTICS MANAGEMENT INSTITUTE

DEPARTMENT OF DEFENSE PUBLIC HEARING
REVITALIZING BASE CLOSURE COMMUNITIES
AND COMMUNITY ASSISTANCE

Friday, August 5, 1994

Washington, D.C.

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(202) 289-2260

THE LOGISTICS MANAGEMENT INSTITUTE

DEPARTMENT OF DEFENSE PUBLIC HEARING

REVITALIZING BASE CLOSURE COMMUNITIES
AND COMMUNITY ASSISTANCE

Friday, August 5, 1994

Auditorium

General Services

Administration

18th & F, N.W.

Washington, D.C.

The public hearing was called to order at 9:34 a.m.,
Robert E. Bayer, chairman, presiding.

PRESENT: ROBERT E. BAYER, Deputy Assistant Secretary of
Defense for Economic Reinvestment and Base Realignment and
Closure

MARK WAGNER, Special Assistant to the Assistant
Secretary of Defense for Economic Security

CAPTAIN MIKE DURGIN, USN, Director, Base Transition
Office

STEVE KLEIMAN, Deputy Director, Base Closure and

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1 Utilization Office

2 ROB HERTZFELD, Economic Development Specialist, Office
3 of Economic Adjustment

4 JOHN MARCUS, Deputy Director for Materiel and Resource
5 Management Policy, Office of the Deputy Under Secretary of
6 Defense for Logistics

7 DON MANUEL, Assistant for Engineering, Office of the
8 Assistant Secretary of the Army (Installations, Logistics and
9 Environment)

10 JEFF ROTH, Director, Real Estate Support, Naval
11 Facilities Engineering Command

12 DOUG BAUR, Chief Counsel, Air Force Base Conversion
13 Agency

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P R O C E E D I N G S

MR. BAYER: Good morning, ladies and gentlemen.

Good morning and welcome to the Department of Defense's public hearing on the interim rule for revitalizing communities affected by base closures.

As most of you know, this hearing concludes the four month public comment period that began last April. We have had over 700 comments from 100 individuals. So our goal of stimulating a dialogue between communities that are either affected now or potentially affected by base closures has certainly been achieved.

We will begin the work of analyzing those comments here in the very near future.

This hearing is a final opportunity where we have invited folks to speak. Unfortunately we perhaps did not have enough time for as many as might want to have spoken. But we will have an opportunity this morning to receive the input from people who have a great interest in this and who now also have the benefit of the outreach meetings we have had and a great deal of dialogue that has gone on within the community, the redevelopment community.

One of the things that we are hopeful about in today's hearing is that the witnesses will move from the comments most of you have already provided for the record in terms of your views on the regulations, as they are currently written, to

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1 moving toward your views of solutions.

2 We are very interested in solutions that will make our
3 regulations better and still operate within the constraints of
4 law we find ourselves having.

5 We have a panel of folks who all will be working on the
6 rewriting of the regulations. That is why we have so many
7 folks here. We wanted as many of that team as possible
8 personally to hear your testimony this morning.

9 On my left is Mark Wagner, a Special Assistant to the
10 Assistant Secretary of Defense for Economic Security. On my
11 right is Captain Mike Durgin, who is the Director of the Base
12 Transition Office.

13 Steve Kleiman is sitting at the end of the table. He is
14 the Deputy Director of the Base Closure and Utilization
15 Office. Rob Hertzfeld, who is at the other end of the table,
16 works with the Office of Economic Adjustment. He is our link
17 with an agency that many of you have had direct contact with
18 in the past.

19 We are also pleased, to my far right, to have John
20 Marcus here. For those of you who came to our outreach
21 sessions, you know that John works for the Deputy Under
22 Secretary for Logistics and is our resident expert on personal
23 property disposal.

24 We also have representatives of the three military
25 services here. They are, obviously, the disposal agents for

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1 this property. So they have a very key role to play in
2 assisting communities in redevelopment. They are Mr. Don
3 Manuel, Assistant for Engineering in the Office of the
4 Assistant Secretary of the Army for Installations; Jeff Roth,
5 the Director for Real Estate Support for the Navy Facilities
6 Engineering Command; and, representing the Air Force, is Mr.
7 Doug Baur, who is the Chief Counsel for the Air Force Base
8 Conversion Agency.

9 Before we begin, I would like to describe the format of
10 what we would like to do this morning. We have a great deal
11 of material to cover. We have a lot of people who wanted to
12 speak. So we are asking for the discipline of five minutes of
13 comments. Mr. Kirby Allen is behind me here. He is going to
14 be reminding you when you have a minute left, then when you
15 have 30 seconds left, so that you can sort of time yourselves.

16 I would really ask you to cooperate in this discipline
17 because, if we do not do that, we are simply not going to have
18 the time not only to hear what you have to say but also to
19 have a bit of dialogue between our panel and you. We have
20 organized the witnesses in panels so that we would have an
21 opportunity, perhaps, for you to bounce ideas off one another
22 and not just for the panel to dialogue with you individually.
23 We hope that works out.

24 All of your comments will be taken down. As you can
25 see, we have a Court Reporter here. Any comments that you

1 want to submit for the record beyond your oral ones, please do
2 so. They will be part of the record. Anyone who is here this
3 morning who did not have an opportunity to make an oral
4 statement or who chose not to, but who has a statement or
5 comments, again, this is the last day of the public comment
6 period and we would encourage you to provide those to Jennifer
7 Adkin or Damon Hemmerdinger before you leave today. They are
8 in the rear of the room.

9 I want to thank the General Services Administration for
10 their hospitality in providing a setting for us today.

11 To begin with, we are going to have, potentially, six
12 panels. But we have three Members of Congress who are going
13 to be here during the day. So what I am going to do is
14 interrupt the panels as they come so that we are able to
15 receive their testimony in an expedited way, so that they can
16 get on with the business of a very, very hectic legislative
17 season.

18 To begin today, I want to recognize a friend from
19 Congress, Congressman Sam Farr from California.
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1 STATEMENT OF HON. SAM FARR, U.S. REPRESENTATIVE FROM THE
2 17TH DISTRICT OF CALIFORNIA

3 REPRESENTATIVE FARR: Thank you very much, Mr. Chairman.
4 I appreciate your giving me this opportunity. I have to tell
5 you that the first day I was sworn into office, right after
6 being sworn in, I rushed over to give testimony before the
7 BRAC Commission and found out, when I got back to Congress,
8 that I had missed my first three votes. So I hope that today
9 I can avoid doing that.

10 I want to thank the panelists for this opportunity for
11 all of us to come together to address these vital issues. I
12 am pleased to be able to share my insights on the Interim
13 Final Rule which implements provisions of Title 29 of the
14 Fiscal Year 1994 National Defense Authorization Act.

15 I commend the Department of Defense for extending the
16 public comment period on the Interim Final Rule for an
17 additional 30 days, and I am encouraged by the Department's
18 actions to hold public hearings on this important matter.

19 As this panel is aware, I represent the Congressional
20 district on the central coast of California, where the first
21 jobs-centered, economic development conveyance occurred last
22 month under the Pryor Amendment provisions in section 2903,
23 with implementing the guidance provided by the Interim Final
24 Rule.

25 My comments today will be broken down into three areas.

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1 First, I will provide a policy overview in which I will point
2 out the clear disparity between the President's stated policy
3 goals for securing and spurring economic reinvestment for base
4 closure communities, and the Interim Final Rule, which is
5 supposed to be promulgated to carry out this goal.

6 Second, I will highlight the specific provisions of the
7 Interim Final Rule, which are barriers to expedient property
8 transfer, and, thus, expeditious redevelopment, the most
9 crucial and critical component of the base closure community
10 assistance process.

11 Finally, there has been a great deal of confusion on
12 what appears to be conflicting priorities and goals of the law
13 and those of the Department of Defense. I would point out two
14 pivotal sections of the Interim Rule which I believe are
15 inappropriately determined by DOD in view of the spirit in
16 which the law was written, and make specific recommendations
17 for improving the ambiguous language in these two critical
18 sections which I believe would greatly clarify the intent of
19 the language so that it will conform to the intent of the law.

20 As a policy overview, the President's Five Point Plan is
21 a jobs centered property disposal process, which was developed
22 to enhance the likelihood of redevelopment success for
23 impacted base closure communities. the paramount goal of the
24 President's initiative, which is carried out by the provisions
25 of the Pryor Amendment, is to put economic development at the

1 center of base closure asset disposition. The property
2 disposal process being developed by the Interim Final Rule is
3 actually in considerable conflict with the President's and the
4 Congress' shared goal of expedient community economic
5 redevelopment. I am greatly disturbed by the inconsistent
6 message being sent through DOD's interpretation of the
7 paramount goal of this initiative. The Interim Rule clearly
8 sets the tone that the revenue recoupment incentive is DOD's
9 priority over the economic revitalization of the community.

10 Through my experience in negotiating with the DOD and
11 the Army over the Fort Ord land conveyances in California to
12 the California State University and the University of
13 California, I can attest that the process set in motion by the
14 Interim Final Rule conflicts with the intended nature of this
15 crucial initiative.

16 Additionally, the way the Interim Rule has been written,
17 each service has the opportunity to impose their own
18 interpretation and perspective on the process. this does not
19 do much for encouraging DOD to manage the process well, and
20 allows for some confusion. Furthermore, the process, as
21 developed this way, does not allow for the learning
22 experiences of one service to be incorporated into the next
23 conveyance.

24 Some specific provisions or trouble spots are the
25 following.

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1 First, the base closure community assistance process
2 outlined in the Interim Rule encourages DOD disposal agents,
3 i.e., the services, to screen and sell the excess property
4 before making it available to the communities. The community
5 reuse needs should be the driver of the economic development,
6 not the Federal Government.

7 On the fair market test value, the respective services
8 making the conveyance need to be supportive of the approved
9 base reuse plan. The service should not be attempting to sell
10 property that is not consistent with the local land use plans
11 and which has not been specifically zoned.

12 On profit sharing, section 91.7 Procedures (f)(2), the
13 determination of what is considered "net profit" is unclear
14 and inappropriately tied to regulations more appropriate to
15 procurement than to economic revitalization. Consideration
16 should be to assisting the redevelopment agencies in their
17 task of encouraging redevelopment.

18 As for straw transactions, the sales of leases to
19 cooperating parties at nominal prices do not provide enough
20 guidance in the case of economic development efforts. For
21 instance, it is entirely possible that the only way a company
22 may enter into a long-term lease is if the prospective lessee
23 receives a guaranteed number of years of rent at a nominal, or
24 free, price. This should not be considered as a potential
25 straw transaction.

1 My recommendation on this is that the straw transaction
2 language in the rule and in any subsequent deeds should
3 indicate that, for the purposes of economic development, it is
4 clearly understood that economic incentives, such as sales or
5 leases at nominal prices, should be expected.

6 Regarding notification of DOD sales or leases, it is
7 apparent that the notice of sales or leases to the disposing
8 military department are intended to provide the government
9 with an opportunity to intervene on a property transaction.
10 This should not occur.

11 I recommend that it not be done.

12 In closing, I just want to say that before coming to
13 Congress, I served in local government as a Supervisor and for
14 12 years in the California State Legislature, where I was
15 Chairman of an Economic Development Committee and authored
16 many bills on economic development and land use planning. I
17 know that in this process of trying to implement the
18 President's mandates and in the process it has to go through
19 with adopting legislation in Congress and then setting up the
20 rule process, oftentimes, when we review it, as you are doing,
21 we find that things need to be cleaned up. I pledge to you my
22 service, as a Member of Congress, if, indeed, you need
23 statutory changes for the cleanup process that I stand ready
24 to do that. I am familiar with what we are trying to
25 accomplish.

1 Indeed, I want, in closing, to thank all of the parties
2 that be. I think we have learned a lot from the closure of
3 fort Ord. It is the largest of the military bases to be
4 closed in the United States. It has, as Secretary Perry
5 indicated, probably more problems than any other base when you
6 look at the environmental problems, the local politics, and so
7 on. And yet, we were able to convey it very quickly because
8 we really went by the local reuse plan. That is the key
9 governing document. I hope that your rules will be amended to
10 reflect that it is the economic reuse of the base for the
11 local community that is the driving force, not the military
12 needs to regain capital. Thank you very much.

13 [The prepared statement of Rep. Farr follows:]
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The Honorable Sam Farr
17th District, California

Page #1

**Testimony on the
Interim Final Rule Implementing Title XXIX Of
The National Defense Authorization Act for FY 1994**

August 5, 1994

Good Morning Mr. Bayer and panelists. I am pleased to be able to share my insights on the Interim Final Rule which implements provisions of Title 29 of the FY 94 National Defense Authorization Act.

I commend the Depart of Defense for extending the public comment period on the Interim Final Rule for an additional 30 days, and I am encouraged by the Department's actions to hold a public hearing on this important matter.

As the panel is aware, I represent the Congressional district on the Central Coast of California where the first jobs-centered, economic development conveyance occurred last month under the "Pryor Amendment" provisions in Section 2903, with implementing

guidance provided by the Interim Final Rule.

My comments today will be broken down into three areas. First, I will provide a policy overview in which I will point out the clear disparity between the President's stated policy goals for spurring economic reinvestment for base closure communities, and the Interim Final Rule which is supposed to be *promulgated to carry out this goal*. Second, I will highlight specific provisions of the Interim Final Rule which are barriers to expedient property transfer, and thus expeditious redevelopment -- the most critical component of the Base Closure Community Assistance process. Finally, there has been a great deal of confusion on what appears to be conflicting priorities and goals of the law and those of the Department of Defense. I will point out two pivotal sections of the Interim Rule which I believe are inappropriately determined by DoD in view of the spirit in which the law was written, and make specific recommendations for improving the ambiguous language in these two critical sections, which I believe would greatly clarify the intent of the language so that it will conform to the intent of the law.

Policy Overview

The President's five-point plan, is a "*Jobs Centered Property Disposal*" process which was developed to enhance the likelihood of redevelopment success for impacted base closure communities. The paramount goal of President Clinton's initiative, which is carried out by the provisions of the "Pryor Amendment," is to put "*economic development at the center of base closure asset disposition.*" The actual property disposal process being developed by the Interim Final Rule is actually in considerable conflict with the President's and the Congress' shared goal of expedient community economic redevelopment. I am greatly disturbed by the inconsistent message being sent through DoD's interpretation of the paramount goal of this initiative. The Interim Rule clearly sets the tone that the revenue recoupment incentive is DoD's priority over community economic revitalization. Through my experience in negotiating with DoD and the Army over the Fort Ord land conveyances to the California State University and the University of California, I can attest that the process set in motion by the Interim Final Rule conflicts with the

intended nature of this crucial initiative.

Additionally, the way the Interim Rule has been written each service has the opportunity to impose their own interpretation and perspective on the process. This does not do much for encouraging DoD to manage the process well, and allows for confusion. Furthermore, the process as developed this way does not allow for the learning experiences of one service to be incorporated into the next conveyance.

Specific Provisions

The Base Closure Community Assistance process outlined in the Interim Rule encourages DoD disposal agents (ie the services) to screen and sell the excess property before making it available to the communities. The community reuse needs should be the driver of economic development, not the government.

Fair Market Test Value

The respective Service making the conveyance needs to be supportive of the approved Base Reuse Plan. The Service should not be attempting to sell property without local land use zoning or in conflict with the reuse plan.

Profit Sharing

Section 91.7 Procedures (f) (2).

The determination of what is considered "net profit" is unclear and inappropriately tied to regulations more appropriate to procurement than to economic revitalization. Consideration should be to assisting the redevelopment agencies in their task or encouraging redevelopment.

Conclusion

Straw Transactions

The sales of lease to cooperating parties at nominal prices do

not provide enough guidance in the case of economic development efforts. For instance, it is entirely possible that the only way a company may enter a long-term lease is if the prospective leasee receives a guarantee number of years of rent at a nominal (or free) price. This should not be considered a potential straw transaction.

Recommendation: The straw transaction language in the Rule and in any subsequent deeds should indicate that for purposes of economic development it is clearly understood that economic incentives such as sales or leases at nominal prices should be expected.

Notification of DoD Sales or Leases

It is apparent that the notice of sales or leases to the disposing military department are intended to provide the government with an opportunity to intervene on a property transaction. This should not occur.

Recommendation

I recommend notification not be done.

1 MR. BAYER: Thank you, Congressman Farr. I think that
2 the experience that you and your constituents had with regard
3 to Fort Ord are helpful to us in seeing what the real
4 difficulties are of disposal. I hope that your observation
5 that Fort Ord is perhaps the most complex disposal we have
6 comes true.

7 REPRESENTATIVE FARR: Thank you very much.

8 MR. BAYER: I would like to recognize next Delegate
9 Robert Underwood, from Guam. We are glad to have you here,
10 sir.

11 Most people do not recall that, while the BRAC process
12 is only for domestic bases, since Guam is a U.S. possession,
13 the closure or termination of Navy activities at ~~Ana~~ ^{NAS Agaña} ~~Asagana~~
14 is part of the BRAC process.

15 We are glad to have you here.
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1 STATEMENT OF HON. ROBERT UNDERWOOD, U.S. DELEGATE IN
2 CONGRESS FROM GUAM

3 DELEGATE UNDERWOOD: Thank you very much, and thank you
4 for giving me this opportunity to testify about DOD's Interim
5 Rule for implementing the Pryor Amendment.

6 If there is no objection, I would like to include for
7 the record official documents and comments submitted by the
8 Governor of Guam and some very specific suggestions about
9 changes to the Interim Rule.

10 MR. BAYER: We are pleased to have those.

11 ~~[The information referred to follows:]~~

12 ~~[INSERT]~~ inserted after pg. 98
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1 DELEGATE UNDERWOOD: We all know that President
2 Clinton's Five Point Plan was designed to help communities
3 affected by base closure and that the plan aims to expedite
4 the turn-over of property in order to create jobs and foster
5 economic development. The Pryor Amendment explicitly stated
6 that the Federal Government can best contribute to community
7 redevelopment by making base property available to communities
8 affected by such closure.

9 The Interim Rule, however, I think, and I think I can
10 also say on behalf of the people of Guam that they, with great
11 unanimity, believe it contravenes the spirit of the Pryor
12 Amendment. It allows private entities to bid against local
13 governments trying to put property to public use and it allows
14 the Department of Defense to take 60 percent of all profits
15 from property sales. It gives the military departments sole
16 discretion over the valuation of those properties.

17 The people of Guam, like Americans across the country,
18 want a greater voice in the decision-making process than the
19 Interim Rule proposes and allows. For example, the rule only
20 gives local reuse committees an advisory role, not a
21 substantive position to determine future land uses. Community
22 reuse plans are currently developed through a public process -
23 - at least on Guam we are very clear on this -- characterized
24 by consensus building, bringing together diverse interests,
25 and negotiation.

1 Of what use are these reuse plans if they are not
2 implemented?

3 This lack of meaningful community participation means
4 that the Interim Rule stumbles into a long-standing problem on
5 Guam, and this perhaps gives our NAS issue a unique dimension.
6 Historical injustices surround the acquisition of that land
7 originally from the people of Guam, from the Chomoro people of
8 Guam. The Naval Air Station, which now exists, was originally
9 built as an airstrip by the Chomoro people during the Japanese
10 occupation under slave labor conditions. After the United
11 States armed forces liberated Guam in July of 1944, the U.S.
12 Navy simply took over the airfield and gave the original land
13 owners, including the people who built the airfield, a very
14 token compensation.

15 In 1993, under a Base Realignment and Closure Commission
16 directive, the people of Guam finally won the right to reclaim
17 that land. To tamper with the complete and unfettered
18 transfer of NAS ^{Agana} again to the people of Guam would not just be
19 a procedural miscalculation but a continuation of that
20 historical injustice that I have just outlined.

21 Furthermore, it would be a bitter irony to see an action
22 on this year, the 50th anniversary of the liberation of Guam,
23 which took place on July 21, 1944, and then we commemorated it
24 just last month. I am very concerned that the services are
25 implementing the Interim Rule too quickly. For example, the

1 Director of Navy Real Estate for the Pacific Division wrote to
2 our Base Reuse Committee to inform us that the property
3 valuation process under the Interim Rule was being initiated.
4 If we are here today to discuss changing the Interim Rule, why
5 is it being implemented by the services?

6 I would like to see immediate action to suspend all
7 current efforts to implement the Interim Rule until DOD has
8 redrafted the rule, until this process has played itself out.
9 We think that that is the best way to show that we are working
10 in a collaborative manner.

11 I want to commend DOD and GSA for holding this hearing
12 and for extending the public comment period. Obviously, the
13 department understands that the Interim Rule, as written,
14 cannot stand. As a Member of the House Armed Services
15 Committee, I will be very pleased to see the department
16 respond in good faith to the comments provided by my
17 community, as well as others. It is possible -- here is the
18 final irony -- it is possible, if the Interim Rule remains in
19 place, that NAS ^{Agana}~~Agana~~ land will be purchased by Japanese
20 investors.

21 We have all heard of "buy American." How about making
22 sure we "sell American." And, when it comes to public use, we
23 should make sure that we give to American local governments.

24 Just to recap, just to make sure that we understand the
25 four points that are part of our detailed suggestions, one is

1 that there be more decision-making power for local reuse
2 committees. Second is do not put the services in charge of
3 valuing, selling, or bidding property. Under the Interim
4 Rule, they are allowed, even when there is no specific
5 interest in purchasing the property, the military departments
6 can go ahead and do it anyway. Also, get rid of the 60/40
7 split of profits, and please postpone implementation until the
8 rule is rewritten.

9 Thank you.

10 MR. BAYER: Thank you very much. We appreciate your
11 coming this morning.

12 Our first panel this morning includes five distinguished
13 individuals, starting with Mr. Robert Wagner, who is a
14 Councilman from the City of Lakewood, California, in the Long
15 Beach area. We welcome you, Mr. Wagner. Glad to see you
16 again.

17 Also we have Mr. Owen Bludau, who is the Executive
18 Director of the Vint Hill Economic Adjustment Task Force,
19 which is in Vint Hill Farms, just outside of Washington, in
20 northern Virginia. We have Mr. Herb Smetheram, Executive
21 Director of the Naval Training Center Base Re-Use Commission
22 in Orlando. I was just down in Orlando a few weeks ago. We
23 are glad to have you here.

24 Also on the panel we have Mr. John Alschuler, Vice
25 President and Partner of Hamilton, Rabinovitz & Alschuler.

1 They have been working with the Charleston community. We are
2 glad to have you here.

3 Finally, there is Mr. Keith Cunningham, who is a Policy
4 Associate with the Business Executives for National Security
5 group which has been, from the very beginning of the BRAC
6 process, very supportive of this very painful effort.

7 We appreciate your being here.

8 Mr. Wagner, why don't you start, please?

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1 GROUP 1

2 STATEMENT OF ROBERT WAGNER, COUNCILMAN, CITY OF
3 LAKEWOOD, CALIFORNIA (LONG BEACH)

4 MR. (ROBERT) WAGNER: Thank you.

5 On behalf of my community, I would like to thank you for
6 this opportunity. As indicated, I am a City Council Member in
7 Lakewood, California, and co-chairman of the Southeast Area
8 Military Facility Reuse Alliance of Cities, or SAMFRAC. We
9 picked the acronym because we know the military just loves
10 acronyms.

11 SAMFRAC is an alliance of six cities in Los Angeles and
12 Orange Counties, adjacent to a closed military facility, the
13 former Long Beach Naval Hospital.

14 We believe that the proposed rules are a step in the
15 right direction, but they contain serious flaws which, if not
16 corrected, will hinder, rather than promote, the economic
17 development of communities impacted by base closures and the
18 loss of Federal payrolls.

19 For example, the proposed rules fail to consider the
20 consequences of creating one new job at the expense of
21 existing jobs, or creating so-called growth in one community
22 by reducing the jobs and the growth in adjacent communities.
23 Obviously, in a free market, economic activity in one city
24 impacts many others.

25 However, the Federal Government should not put itself in

1 the position of arbitrarily favoring one local economy at the
2 expense of others, resulting in a second economic hit when a
3 closed base is redeveloped in certain ways which impact those
4 other communities.

5 We ask that the department revisit the difficult issue
6 of defining job creation. Under the proposed rules, the DOD
7 can merely add up the gross number of jobs in a proposed
8 redevelopment effort and call that job creation. The
9 Department of Defense, with the aid of the Departments of
10 Labor and Commerce, needs to develop a more realistic
11 measurement of net job creation in a region that evaluates the
12 impact of redevelopment on neighboring cities as well. Or the
13 department should delegate that responsibility to an
14 appropriate regional organization, such as the Council of
15 Governments, which can determine net job creation in a
16 reasonably objective manner within a region.

17 It would be a pitiful result of base redevelopment to
18 create one new job in one city and cause the loss of two
19 existing jobs in a neighboring city.

20 There must be a regional net increase in order to be
21 called true job creation.

22 The economic losses that follow base closure affect wide
23 regions and penetrate deeply into many local economies. Yet
24 the proposed rules allow the local zoning authority to
25 determine the reuse of a closed base. It is also naive to

1 believe that one jurisdiction, whose sole purpose is the
2 betterment of its own residents, will benevolently look out
3 for the interests of its neighbors.

4 The Long Beach Naval Hospital was closed as a result of
5 decisions made by the Navy in the 1991 BRAC Commission. I
6 have a map on the right here (indicating). Logistically, this
7 is a little bit difficult. But you will see that there are
8 some circles emanating from a center, which is a small, red
9 section. That is the Naval Hospital site.

10 Surrounding that area, down off to the left and south,
11 you see a white area, which represents the City of Long Beach.
12 Just above it is a brown section, which is the City of
13 Lakewood. To the right of it is a pink section, which is the
14 Hawaiian Gardens.

15 There are a number of other cities that fall within the
16 region. But, clearly, we have a situation where the hospital
17 site is basically adjacent to other areas.

18 If you step off the sidewalk in front of the hospital,
19 you are in the City of Lakewood. If you cross the 605
20 Freeway, which is right beside it, you are in the City of
21 Hawaiian Gardens, a city with one of the lowest per capita
22 incomes in the nation, which is 60 percent Hispanic.

23 When the hospital closed, the loss of Federal payrolls
24 had negative economic impacts on all of these neighboring
25 cities, not merely Long Beach. Any redevelopment in the Naval

1 Hospital will impact transportation, air quality, and the
2 economy of the entire region surrounding that site, not merely
3 within the city limits of the local zoning authority. If the
4 proposed rules ignore this, the result will be open conflict
5 between cities and lead to further delay in effective
6 redevelopment.

7 For example, if the City of Long Beach builds the
8 million square foot retail power center it has announced for
9 the Naval Hospital site, transportation corridors along the
10 605 Freeway and Carson Street must be expanded to handle a
11 six-fold increase in traffic to the hospital site. Carson
12 Street, from curb to curb, is entirely within the City of
13 Lakewood. Improvements to Carson will require Lakewood's
14 assistance.

15 Increased traffic on these corridors will impact air
16 quality in a region already designated as a non-attainment
17 area under the Federal Clean Air Act.

18 MR. BAYER: Excuse me, Mr. Wagner. I'm afraid your time
19 is up. I wonder whether you can summarize and put the rest of
20 your statement in the record so that we have enough time for
21 all the witnesses that we have.

22 MR. (ROBERT) WAGNER: All right. These are my last
23 couple of comments.

24 The economic studies have shown that the retail
25 development does drain jobs and retail sales from these other

1 areas. The only recourse for cities excluded from the process
2 is costly and lengthy court challenges. Litigation cannot
3 benefit our economies, create jobs, or promote region-wide
4 economic stimulus. The solution is to make the proposed rules
5 inclusive, rather than exclusive. Even prior notification of
6 affected communities and meetings to educate community leaders
7 in advance about the reuse process would be an improvement
8 over the proposed rule.

9 If the President's plan for economic revitalization is
10 to be realized, the DOD must be charged with promoting a
11 consensus among all impacted jurisdictions, not merely
12 acquiescing to the interests of the local zoning authority.
13 The heavy economic impacts of base closures need to be
14 lightened for all affected communities, and not just the city
15 that contains a closed military facility.

16 Thank you.

17 [The prepared statement of Mr. Robert Wagner follows:]
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**Department of Defense
Hearing On
Revitalizing Base Closure Communities**

**Testimony By
Council Member Robert G. Wagner**
City Of Lakewood, California

August 5, 1994

On behalf of my community, I would like to thank Assistant Secretary Gotbaum and Deputy Assistant Secretary Bayer for providing a forum in which communities like Lakewood can assist the Department of Defense with finding appropriate models for the reuse of closed military facilities.

You hold the economic futures of millions of Americans in your hands. It is a heavy responsibility--quite different from the defense responsibility of the DoD--and I appreciate that you do not take it lightly.

I am a city council member in Lakewood, California and co-chairman of the Southeast Area Military Facility Reuse Alliance of Cities--or SAMFRAC.

SAMFRAC is an alliance of six cities in Los Angeles and Orange Counties adjacent to a closed military facility--the former Long Beach Naval Hospital.

SAMFRAC has submitted comments on the proposed rules in accordance with the procedures published in the Federal Register.

We believe the proposed rules are a step in the right direction. But, they contain serious flaws which, if not corrected, will hinder, rather than promote, the economic development of communities impacted by base closures and the loss of federal payrolls.

We are concerned--rightly I believe--that the rapid drawdown of military capacity, and the complexity of the base conversion process, is leading to unintended consequences that will undermine the economic future of cities like Lakewood.

I. DEFINITION OF JOB CREATION

For example, the proposed rules fail to consider the consequences of creating one "new" job at the expense of existing jobs, or creating "growth" in one community by looting the economies of adjacent cities.

Obviously, in a free market, economic activity in one city impacts many others.

However, the federal government should not put itself in the position of arbitrarily favoring one local economy at the expense of others--resulting in a second economic "hit" when a closed base is redeveloped.

We ask that the department revisit the difficult issue of defining "job creation." Under the proposed rules, the DoD can add up the gross number of jobs in a proposed redevelopment effort, and call that "job creation."

The Department of Defense, with the aid of the Departments of Labor and Commerce, must develop a more realistic measurement of "net job creation" that evaluates the impact of redevelopment on neighboring cities.

Or, the department should delegate that responsibility to an appropriate regional organization--such as a council of governments--which can determine "net job creation" in a reasonably objective manner.

It would be a pitiful result of base redevelopment to create one "new" job in the neighboring city of Long Beach and cause the loss of ~~two~~ *existing jobs* in Lakewood.

This is the projected outcome of development plans under consideration by the Navy for the Long Beach Naval Hospital.

II. RELIANCE ON LOCAL ZONING AUTHORITY

The economic losses that follow base closure affect wide regions and penetrate deeply into many local economies.

Council Member R. G. Wagner
City of Lakewood, California
Page 2

Because the economic pain is felt by many communities, all of them have a stake in base redevelopment.

We believe the President's 5 Point Plan for economic revitalization of base closure communities was not intended to cripple the economies of many cities while propping up the economies of a few.

For example, the proposed rules allow the local zoning authority to determine the reuse of a closed base. But, local zoning authority cannot be the "tail that wags the dog" when settling reuse issues.

It is unfair--and short sighted--to give one jurisdiction sole authority to impact so many others, particularly when their residents will have little, if any, input into the decision-making process.

It is also naive to believe that one jurisdiction, whose sole purpose is the betterment of its own residents, will benevolently look out for the interests of its neighbors.

Land use based on maximizing sales tax generation for a single city, instead of regional job development, has been called "cash box" zoning.

This narrow focus impedes regional economic development cooperation.

How will the proposed rules secure justice for the low-income and minority communities that surround many closed bases if redevelopment decisions are exclusively in the hands of an indifferent local authority interested only in "cash box" zoning?

Let me give you an example.

The Long Beach Naval Hospital was closed as a result of decisions made by the Navy and the 1991 BRAC Commission. The hospital is located in Long Beach.

So that you can fully understand the relationship of the hospital to the communities which surround it, I've brought a map of the area with me.

As you can see, the hospital is in the northeast corner of Long Beach.

Step off the sidewalk in front of the hospital, and you are in the city of Lakewood. Cross the I-605 freeway and you are in the city of Hawaiian Gardens, a city with one of the lowest per capita incomes in the nation and which is 70 percent Hispanic.

When the Naval Hospital was a military facility, it helped support the economies of a number of cities, including Lakewood and Hawaiian Gardens, not merely Long Beach.

When the hospital closed, the loss of federal payrolls had negative economic impacts on all the neighboring cities--not merely Long Beach.

Any redevelopment of the Naval Hospital will impact transportation, air quality, and the economy of the entire region surrounding the site, not merely within the city limits of the local zoning authority.

If the proposed rules ignore the regional nature of both base closure and reuse, then the regional issues will fester into open conflict between cities, and lead to further delay in effective redevelopment.

For example, if the city of Long Beach builds the million-square-foot retail "power center" it has announced for the Naval Hospital site,

Council Member R. G. Wagner
City of Lakewood, California
Page 3

transportation corridors along the I-605 and Carson Street must be expanded to handle a six-fold increase in traffic to the hospital site.

Carson Street--from curb to curb--is entirely in the city of Lakewood. Improvements to Carson will require Lakewood's assistance.

Other improvements to the I-605 will require the assistance of the state transportation department, Lakewood, and Hawaiian Gardens.

Increased traffic on these corridors will impact air quality in a region already designated as a "non-attainment area" under the federal Clean Air Act.

And, study after study has shown that retail development on the hospital site will drain jobs and retail sales from my city and Hawaiian Gardens. The loss of jobs and local revenue will complicate our ability to provide basic municipal services.

Granting exclusive authority to one jurisdiction--because the military facility happens to be within its limits--drives a wedge between neighboring communities.

By creating arbitrary economic boundaries based on zoning authority, the Department will cripple the reuse process, not speed it up.

CONCLUSION

Unfortunately, conflict is built into the proposed rules.

They fail to define "net job creation," and vest arbitrary authority in the hands of a single jurisdiction. The only recourse for cities excluded from the process is costly and lengthy court challenges.

Litigation cannot benefit our economies, create jobs, or promote region-wide economic stimulus.

The solution is to make the proposed rules inclusive rather than exclusive.

Even prior notification of affected communities, and meetings to educate community leaders in advance about the reuse process, would be an improvement over the proposed rules.

The DoD must be charged with promoting a consensus among all impacted jurisdictions--not merely acquiescing to the interests of the local zoning authority.

Finally, the SAMFRAC cities applaud your efforts in dealing with the critical issue of McKinney Act screening.

We hope that you will deal just as effectively and fairly with communities like Lakewood that seek--and need--genuine economic growth from the redevelopment of closed military facilities.

The heavy economic impacts of base closures need to be lightened for all affected communities, not just the city that contains a closed military facility.

1 MR. BAYER: Thank you.

2 I am wondering, when we get to Mr. Alschuler, since you
3 have a situation where the zoning authority for Charleston is
4 in one jurisdiction, but you have a planning process that
5 includes a number of other jurisdictions, maybe you might have
6 some views on the situation that Mr. Wagner looked at.

7 Mr. Bludau.

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1 STATEMENT OF OWEN BLUDAU, EXECUTIVE DIRECTOR, VINT HILL
2 ECONOMIC ADJUSTMENT TASK FORCE, VINT HILL, VIRGINIA

3 MR. BLUDAU: Thank you.

4 Gentlemen, I appreciate the opportunity to appear today
5 on behalf of Fauquier County, Virginia, and its Economic
6 Adjustment Task Force.

7 I am speaking against job centered property disposal.
8 Before my specific comments, I briefly want to provide the
9 setting describing Fauquier County and Vint Hill Farms.

10 Fauquier County has a population of 51,000 persons and a
11 workforce of 26,000. The closure of Vint Hill Farms Station
12 represents a loss of over 1,100 civilian jobs, or 10 percent
13 of our in-county workforce, and \$15 million annual payroll in
14 our county.

15 Recovering from this blow is the top priority of our
16 county and of its tax force. We have two goals: to replace
17 the civilian jobs with like-type of jobs, and to increase the
18 county's tax base.

19 The Economic Adjustment Task Force has been appointed by
20 the county to guide this adjustment and has been meeting
21 frequently for over a year. We have a professional firm under
22 contract to prepare our reuse plan, and by the end of Fiscal
23 Year 1995, we will have spent a total of over \$485,000 for
24 preparing for economic reuse.

25 This briefly indicates the seriousness with which we

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1 record our commitment to the economic redevelopment of Vint
2 Hill Farms.

3 I would like to speak specifically to the job centered
4 property disposal elements.

5 No defense agency has as much as stake as does the local
6 community in achieving successful economic redevelopment. The
7 premise that job centered property disposal can create jobs
8 faster and better through the sale of BRAC bases to the
9 private sector is not only a false premise, it is a harmful
10 and wasteful one to the rapid economic recovery of impacted
11 communities.

12 In our case, it is false, harmful, and wasteful for the
13 following reasons.

14 First, the uncertainty whether the Army will sell Vint
15 Hill out from under the community planning effort inherently
16 breeds suspicion of the military's commitment to follow the
17 Five Point Program and the intent of Congress and the Pryor
18 Amendment.

19 Second, a statement made at the Tyson's Corner outreach
20 seminar that speculation is not a problem reflects the total
21 unreality of the job centered property disposal concept. This
22 speaker only has to see what has occurred to land sales and
23 values around Haymarket, Virginia, since Disney announced its
24 location to know that speculation is alive and only partially
25 hurt by the economic downturn. It appears that Vint Hill

1 would attract speculators. It is only six miles from the
2 Disney site and it has the water and sewer systems necessary
3 for job creation, of which there are very few in our county.

4 We have publicly declared our desire to see jobs and tax
5 base created there. So it does not take a rocket scientist to
6 realize that large profits can be made by purchasing Vint Hill
7 at discounted prices, reflecting no zoning, aging
8 infrastructure, and environmental problems needing
9 remediation, and sitting back for the county to zone the site
10 for the desired jobs. Then there will be instant profits
11 created, which would be realized by flipping the site to
12 others without creating a single job. And neither the Army
13 nor the county will share in speculation profits.

14 Number three, our task force is already in preliminary
15 discussion with a number of potential site users. We expect
16 more employers to be attracted when we begin actively
17 marketing the site. As discussions progress, both parties
18 have to make commitments on purchasers, leases, financing
19 arrangements, site improvement sharing, and utility services.
20 These early commitments are necessary to activate plans and
21 expenditures by both companies and the county to have jobs
22 available as the Army moves out of Vint Hill Farms.

23 Job centered property disposal can pull the rug right
24 out from under these active job creation commitments. Sale of
25 Vint Hill would waste huge amounts of time and funds spent by

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1 the community in its own reuse efforts.

2 Fourth, the private sector purchasers generally seek the
3 plums from the military base and leave the difficult reuse
4 portions for community redevelopment. The communities need
5 these funds for early sales and leases, to generate the cash
6 flow necessary to repay the military, to upgrade the
7 infrastructure, and to repair the difficult portions of the
8 bases for future reuse.

9 The rules do not even suggest that the base property
10 disposal agencies be a part of the reuse planning process and
11 team. So how can they know, therefore, what is in the best
12 interest of the local economic development?

13 For these and many more reasons, we urge the following.

14 First, the intent of the President's Five Point Plan and
15 the Pryor Amendment be reflected throughout the rules as the
16 primary goals; second, that the jobs-centered property
17 disposal sections be eliminated from the rules; third, that
18 sale of BRAC sites to the private sector by the military only
19 occur at the specific request of the local community or if the
20 community fails to prepare a reuse plan; that the appropriate
21 base disposal agency become an active member of the local
22 reuse planning task force; and, fifth, that the military
23 branches be instructed to enter into economic redevelopment
24 joint ventures with the local communities, with the
25 communities assigned the lead role of redevelopment leader and

1 marketer, and with net profits shared.

2 We can make this process work to the benefit of the
3 country, the military, those who will lose their jobs, and the
4 local communities. It takes trust, goodwill, and an open
5 dialogue on both sides.

6 The communities stand willing to make this commitment,
7 and we hope that the department and the military branches will
8 do the same.

9 Thank you.

10 [The prepared statement of Mr. Bludau follows:]

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INTERIM FINAL RULES PUBLIC HEARING TESTIMONY

August 5, 1994

~~Shadai~~

Gentlemen.

I appreciate the opportunity to appear today on behalf of Fauquier County, Virginia, and its Economic Adjustment Task Force. Before my specific comments, I briefly want to provide a setting. I will be describing Fauquier County and Vint Hill Farms Station; however, my specific recommendations are applicable to each BRAC community.

Fauquier County has a population of 51,000 persons and a work force of 26,000. The closure of Vint Hill Farms Station represents a loss of over 1100 civilian jobs and a \$15,000,000 annual payroll in our County. Recovery from this blow is the top priority for our County and our Task Force.

Fauquier County has two goals for the reuse of Vint Hill Farms:

- to replace the civilian jobs being lost with jobs of similar skill, education and salary levels; and
- to increase the County's tax base by attracting taxable employers to the site.

The Economic Adjustment Task Force was appointed to guide the County's economic adjustment. It has been meeting frequently for more than a year. It has contracted with a professional firm to prepare a reuse plan, based on local receipt of Vint Hill Farms under an economic development conveyance. By the end of FY 1995, we will have spent a total of \$485,000 in preparing for economic reuse.

This briefly indicates the *seriousness* of Fauquier County's commitment to the economic redevelopment of Vint Hill Farms.

Using this background as indicative of most BRAC communities' commitments to economic redevelopment, I wish to speak specifically to the Jobs Centered Property Disposal elements of Part 90.

JOBS-CENTERED PROPERTY DISPOSAL

Tip O'Neill, former Speaker of the House, said that "All politics is local." That statement can also be correctly modified to: "All jobs are local." and "All economic development is ultimately local." Government agencies may *facilitate* or *help enable* job creation and economic development, but ultimately, it is at the local level where jobs are either created or not created.

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That is as it should be. No Department of Defense agency has as much at stake as does the local community in achieving successful economic redevelopment. The Jobs-Centered Property Disposal provisions are based on the premise that the Department of Defense can create private sector jobs faster, better and more appropriate to local needs through sale of BRAC bases to the private sector. This is not only a *false premise*, it is a *harmful and wasteful one* to the rapid economic recovery of impacted communities.

It is false, harmful, and wasteful for the following reasons:

1. The uncertainty whether the military will sell a BRAC base out from under the local community planning effort *inherently breeds suspicion* by the community of the military.
2. Planning requirements may vary extensively depending upon who is the lead site redeveloper. Only a site zoning plan may be necessary if the private sector has the redevelopment lead. However, specific site plans, phasing plans, marketing plans, cash flow projections, interim maintenance plans, etc. are all required if a local authority wants the lead. *These two approaches represent large differences in preparation costs and local time commitments.*
3. The timing in the Rules between reuse planning and when the military tells a community that it intends to sell a BRAC site is *inherently wasteful*. It wastes federal and local money and citizen planning time which may well be negated by the subsequent military sale. Impacted communities do not have these funds to waste.
4. The community *loses much control* over job creation, reuse phasing, appearance and planning if a site is sold to the private sector. This control translates into important public expenditure and service demands making the community *reactive* to rather than *proactive* in leading reuse and redevelopment.
5. Importantly, the military will take a *financial beating* on private sector sales. Values will be depressed because of zoning issues, environmental problems, and substandard site facilities and infrastructure. By working cooperatively with the communities, these negatives can be re-addressed and much higher land values realized over the long term.
6. Streets, utility systems and buildings at many BRAC sites do not meet local development standards or building codes. It will be expensive to bring this infrastructure up to local standards for reuse. Purchasers will look to the communities to fund these street and utility improvements. Without a share in the purchase price, many communities will not have the funds to make the improvements demanded by purchasers for reuse to occur.
7. Private sector purchasers will seek the "plums" from military bases and leave the less desirable portions for communities redevelopment. The communities need the "plums" for early sales or leases to generate the cash flow necessary to repay the military, upgrade infrastructure, and prepare the more difficult sites for future reuse.
8. The Rules *do not even suggest* that the base property disposal agencies be a part of the reuse planning process; how can they know, therefore, what is best for local economic redevelopment?

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For these and many more reasons, we urge the following:

1. That the intent of the President's Five-Point Plan and the Pryor Amendment be reflected throughout the Rules as the primary goals.
2. That the Jobs-Centered Property Disposal sections be eliminated from the Rules.
3. That sale of BRAC sites to the private sector by the military only occur at the specific request of the local community.
4. That the appropriate base disposal agency become an active member of the local reuse planning task force.
5. That the military branches be instructed to enter into economic redevelopment joint-ventures with the local communities, with the communities assigned the role of redevelopment leaders and marketers, and with net profits shared with the military over an extended period of years.

1 MR. BAYER: Thank you very much.

2 In the interest of having as much time as we can for
3 dialogue, what I am going to suggest is if you have statements
4 in full that you want to put into the record, you can do that
5 and simply make some oral comments to highlight the issues
6 that you have. I think that will provide us more time to get
7 into dialogue.

8 Mr. Smetheram.

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1 STATEMENT OF HERBERT E. SMETHERAM, EXECUTIVE DIRECTOR,
2 NAVAL TRAINING CENTER BASE RE-USE COMMISSION (NTC ORLANDO)

3 MR. SMETHERAM: Thank you.

4 On behalf of the City of Orlando, I appreciate the
5 chance to talk on the jobs centered disposal.

6 Let me tell you, when the Pryor Amendments came out, our
7 community stood up and really applauded. This was good public
8 policy, and we, in the community, recognized it. So I wanted
9 to go ahead and talk to just a few of you -- let me see if I
10 can adjust the microphone.

11 Let me go through some quotations that led us to feel
12 this good. The first one is, "The Secretary of Defense shall
13 take into account the redevelopment plan developed for the
14 military installation involved." That is from the
15 consideration of economic needs section of the National
16 Defense Authorization Act.

17 Second, "The primary responsibility for shaping and
18 implementing this redevelopment rests with the local
19 community." This is from the principles of the House-Senate
20 Conferees on the National Defense Authorization Act.

21 Third, "It is going to empower the base closure
22 communities across America." That is Senator Pryor speaking
23 on his amendment in the "Congressional Record" of the 10th of
24 September, 1993.

25 Fourth, "The local reuse plan is really going to be

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1 central. The local communities are controlling their own
2 destiny by their reuse plan." You all ought to recognize
3 that. That is from the Bob Bayer-Mark Wagner press conference
4 of December. Those were great words.

5 But, when the interim regulations came out, let me tell
6 you that our community sat down with a collective groan.
7 Contrast the job centered disposal empowerment of the
8 community, which actually takes away the power of the
9 community in two places. After the military department offers
10 the property for sale -- it has already been done -- the local
11 redevelopment authority may request reconsideration.

12 Second, for high value properties and when the military
13 department determines the installation shall be sold -- an
14 action has already been taken -- then, within 60 days, the
15 local redevelopment authority may request in writing that this
16 determination be reconsidered.

17 We have six recommendations to get us back into the
18 process. They are in the written record, but I will quickly
19 summarize them here.

20 First, the appraisal shall consider local reuse plans,
21 zoning plans, growth management plans, the environmental
22 impact survey, infrastructure upgrades. Preferences of the
23 community shall be considered. These we recommend writing
24 into the regulations.

25 Second, military departments shall consult with local

1 government prior to advertising.

2 Third, expressions shall include compliance with local
3 plans. The redevelopment authority shall review and make
4 recommendations on any expressions of interest received.

5 Fourth, in analyzing expressions of interest, the
6 military departments shall consider the redevelopment
7 authority recommendations and determine consistency with local
8 plans, to include financial capability to meet local plans.

9 If there is disagreement with the development authority
10 recommendation on the proposed sale, the issue shall be
11 referred to the Secretary of Defense.

12 Fifth, after the initial six month advertisement period,
13 no additional marketing of properties by military departments
14 shall occur, except on request of the redevelopment authority.

15 Sixth, the redevelopment authority can recommend
16 approval or disapproval of offers received. Disagreements
17 shall be referred to the Secretary of Defense.

18 Those would protect the Department of Defense
19 requirements and they would get the community back into the
20 system. That is what we ask. We ask to be a partner. Right
21 now, we are not.

22 Our recommendation is to get the community and the
23 redevelopment plan back into the system. Give us a chance to
24 work with you.

25 Thank you.

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1 [The prepared statement of Mr. Smetheram follows:]
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City of Orlando

PLANNING AND DEVELOPMENT DEPARTMENT

400 SOUTH ORANGE AVENUE
ORLANDO, FLORIDA 32801-3302

REUSE PROJECT
NAVAL TRAINING CENTER

(407) 246-3093
FAX (407) 246-2895

Smetherman
Layman #3

T2

July 28, 1994

The Honorable Robert E. Bayer
Deputy Assistant Secretary of Defense
for Economic Reinvestment and
Base Realignment and Closure
3300 Defense Pentagon
Washington, DC 20301-3300

Dear Secretary Bayer:

As requested in your letter of July 27, 1994, attached is the section of the City of Orlando recommendations and rationale on the subject of Jobs Centered Property Disposal. My oral remarks for the August 5 Department of Defense hearing will be drawn from these pages, which were initially submitted to your office as our written comment. These pages can be provided to the panelists for Jobs Centered Property Disposal.

Sincerely,

Herbert E. Smetherman
Executive Director

HS:lp

Enclosure

COMMENTS ON THE INTERIM RULE
IMPLEMENTING TITLE XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT
FOR FY 1994

TO: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

FR: City of Orlando, Florida

RE: Closure of Naval Training Center Installation, Orlando, Florida

Page 16130 - 16131

Column 2

Paragraph (d) - Jobs Centered Property Disposal

Recommended Changes:

§91.7, Paragraph (d) (2) - The Military Departments should identify properties with potential for rapid job creation and begin, as soon as possible, but not later than completion of the new expedited McKinney Act Screening, paragraph (b) of this section, an appraisal or other estimate of the properties' fair market value. This appraisal shall consider the local reuse plan, local zoning and comprehensive plan, the environmental impact statement, required infrastructure upgrades, and other improvements which will be required to the property given its sale on an "as is where is" basis. Such appraisals or estimates should address a range of likely market values taking into account: feasible uses for the property; the uncertainties in property development; and, current market conditions (i.e., recognizing the state of the market after a closure announcement). The preferences of the local government as stated in the reuse plan and local zoning constraints shall also be considered. The appraisal should not be based on the replacement cost of the properties, since they may not be readily adaptable for civilian use. Additionally, the appraisal should not be based on the highest and best use, but the most likely range of uses consistent with local interests. All appraisals shall consider required infrastructure upgrades to assure that the property does not become a burden upon the local taxpayers. The above appraisal may be accomplished for 1988 and 1991 closures if it is determined that it would be beneficial to do so and will not delay the disposal process.

Paragraph (3) - To assist in the appraisal/estimation of fair market value of properties with a potential for rapid job creation, and to determine if interest exists in properties not originally identified for rapid job creation, the Military Departments shall, for 1993 and 1995 closures, advertise for expressions of interest in all or any substantial part of each closing installation. For 1993 and 1995 closures, the Military Departments shall advertise at the completion of the new expedited McKinney Act Screening process (see paragraph (b) of this section). The Military Departments shall consult with the local government prior to placing the advertisements.

Paragraph (d) - Jobs Centered Property Disposal

The Military Departments may advertise for expressions of interest in all or any substantial part of each closing installation on the 1988 or 1991 closure lists if it is determined that it would be beneficial to do so and will not delay the disposal process.

Paragraph (3) (i) - Advertisements for expressions of interest shall be open for six (6) months. Expressions of interest received should detail the intended use, the site plan; the jobs estimated to be created, the schedule of development and hiring, and an evaluation of the worth of the land and buildings. In addition, such expressions of interest include compliance with the local reuse plan, compliance with local zoning and comprehensive plans, and note the ability to provide infrastructure improvements which will be required, as well as demonstrate adequate financial ability to go through with the proposed development. Upon receipt of the expressions of interest, the Military Departments will consult with the local redevelopment authority in regards to the expressions of interest. The local redevelopment authority shall have the ability to review and recommend acceptance or denial of any expressions of interest received. Advertisement for expressions of interest will be conducted simultaneously with all other disposal actions and are not an additional step in the disposal process.

Paragraph (3) (ii) - The Military Departments shall analyze each expression of interest and determine within thirty (30) days of receipt if it is made in good faith and represents a reasonable development proposal. In making its analysis, the Military Departments shall consider the recommendation of the local redevelopment authority. After review of the recommendation by the local redevelopment authority, if the Military Departments decide that an expression of interest received demonstrates the existence of a ready market, the prospect of job creation, is consistent with the Base Re-Use Plan, local zoning, adequately addresses required infrastructure improvements, shows adequate financial ability to proceed with the development, and is consistent with the plans of the local redevelopment agency, and offers proceeds consistent with the range of estimated fair market value, it may decide to offer the property for sale. If the local redevelopment authority and the Military Departments (or his designee) do not agree on the proposed sale, the sale decision shall be referred to the Secretary of Defense (or his designee) for decision. The procedure for this review is set forth in paragraph (d) (5). Potential offerors will be required to work with the redevelopment authority so that their development goals will be compatible with the local redevelopment plan.

Paragraph (3) (iii) - (no changes)

Paragraph (4) - After the completion of the initial six (6) month advertisement period, if no offers have been received, the local redevelopment authority may request additional marketing assistance from the Military Departments. If no such request by the local redevelopment authority is made, no additional marketing of properties shall occur.

Paragraph (d) - Jobs Centered Property Disposal

Paragraph (5) - Pursuant to paragraph (d) (3), the local redevelopment authority has the ability to recommend approval or denial of any offers received. Should the local redevelopment authority, and the Military Departments disagree on whether the proposed sale should occur, the decision to sell shall be referred to the Secretary of Defense for decision. The local redevelopment authority may present its position in writing and may request a meeting with the Secretary of Defense in order to present its position to the Secretary. The Secretary shall consider the position of the local redevelopment authority and make a decision. Such decision shall be announced within sixty (60) days of the date the matter is referred to the Secretary of Defense.

Why: The Job Centered Property Disposal procedures do not appear in the underlying Statutes. It appears that these procedures were developed by the drafters of the rules. It truly appears that the procedures are an attempt to simply make money from those properties which could be marketed.

The Job Centered Property Disposal process appears to violate the sense of Congress and the President in that it fails to actively involve the local community in decisions made with regard to property on Bases which are to be closed. Public Law 103-160, Div. B, Title XXIX, Section 2903 (c), November 30, 1993, 107 Stat. 1915 provides that:

"In order to maximize the local and regional benefit from the reutilization and redevelopment of Military Installations that are closed, or approved for closure, pursuant to the operation of a Base Closure Law, the Secretary of Defense shall consider locally and regionally delineated economic development needs and priorities into the process by which the Secretary disposes of real property and personal property as part of the closure of a Military Installation under a Base Closure Law. In determining such needs and priorities, the Secretary shall take into account the redevelopment plan developed for the Military Installation involved. The Secretary shall insure that the needs of the homeless in the communities affected by the closure of such installations are taken into consideration in the redevelopment plan with respect to such installations."

Paragraph (d) - Jobs Centered Property Disposal

However, as the interim rules have been published, the redevelopment authority has absolutely no voice in the process until a decision to sell by the Military Department. Never is the local government consulted about responses which have been received as a result of the advertisements, whether such responses fit within the proposed use of the Base as set forth by the local government in the redevelopment plan or whether the proposed use meets the development needs and priorities as set forth by the local government.

Further, providing for local government input only at the end of the process, and only through a formal reconsideration mechanism, adds a completely unnecessary adversarial role between the local government and the Military Department. It truly seems in drafting the interim rules that the drafters have lost sight of the spirit of cooperation which was reiterated so many times by our federal leaders, and are attempting simply to sell off what property may be sold, without consultation to the local government. Even the most basic elements of coordination with the local government appear to be lacking in the sale process, in that there is no consideration of zoning requirements, infrastructure requirements and improvements due to the proposed development.

To add insult to injury, the drafters go further in paragraph 4 of the Job Centered Property Disposal Rule in that even if no expressions of interest are received during the first six (6) month advertisement period, the Military Department may decide to continue to market a few high-value installations for an additional period of time. Again, the local government is removed from the system, and is informed only at the end of the initial six (6) month advertisement period whether any high-value installations will be continued to be marketed at the close of the normal six (6) month period. The local government is not consulted early in the process, and may only object in the form of a request for reconsideration, again placing the local government authority in an unnecessarily adversarial position with the Military Department.

It should also be noted that in paragraph 3 (i), the statement is made that, "Advertisement for expressions of interest will be conducted simultaneously with all other disposal actions and are not an additional step in the disposal process." This statement is erroneous for the following reasons:

1. For 1993 Bases, the six (6) month advertisement period begins at the close of the McKinney Act Screening (paragraph (d) (3)).
2. As now provided in the Regulations (paragraph (b) (7) to (10)), at the close of the McKinney Act Screening, the local redevelopment authority can incorporate the property not claimed by the McKinney Act Screening process into the local redevelopment plan.


Paragraph (d) - Jobs Centered Property Disposal

3. Since the new six (6) month advertisement period does not begin until the close of the McKinney Act Screening, it adds at least six (6) months to the process and delays the time frame in which the local redevelopment authority can incorporate the property into the local re-use plan.

The suggested changes we have incorporated in paragraph d - Job Centered Property Disposal, attempt to do the following:

1. Involve the local government to a large extent in the initial stages of the advertisement period. This will allow the local government to feel confident that any proposals which may ultimately be accepted by the Military Department will be consistent with zoning regulations, infrastructure requirements, local comprehensive plans, and other normal development requirements. The local government must feel confident that any transfers under the Job Centered Property Disposal procedures will fit in the overall community plan, as well as comply with normal development laws, rules and regulations.
2. Attempt to revise the Job Centered Property Disposal rules to delete the unnecessary adversarial relationship by providing for early consultation and involvement of the local government, and providing for deferral of the sale decision to the Secretary of Defense should the local redevelopment authority and the Military Departments disagree on the sale.
3. Provide that no additional marketing shall occur beyond the initial six (6) month advertisement period unless additional assistance is requested by the local redevelopment authority.

CITY OF ORLANDO
400 South Orange Avenue
Orlando, Florida 32801


Glenda E. Hood, Mayor

DATE: June 23, 1994

1 MR. BAYER: Thank you very much.

2 Mr. Alschuler, would you take the microphone next,
3 please.

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1 STATEMENT OF JOHN ALSCHULER, VICE PRESIDENT AND PARTNER,
2 HAMILTON, RABINOVITZ & ALSCHULER, CHARLESTON COMPLEX

3 MR. ALSCHULER: Thank you very much.

4 I think the Interim Rules represent an initial good
5 faith effort to try to allocate the responsibilities between
6 the Federal Government and localities. But they are
7 fundamentally flawed in several ways. I speak today not only
8 as a representative of Charleston and Griffiths Air Force
9 Base, but as somebody who has spent 20 years in the real
10 estate development business.

11 You need a process that is simple, you need a process
12 that is expedited. I would submit that we have neither now.

13 We need a process that meets fundamental local needs.
14 You have to be able to secure long-term financing to invest in
15 the redevelopment of the project, which you cannot do right
16 now given the powers asserted by the Federal Government. You
17 need to meet lease obligations and you need to be able to have
18 a rational sale and disposition strategy.

19 I think there are several time-tested models that we can
20 look at to allocate Federal-local responsibilities. In many
21 ways, what we have here is a partnership in which the general
22 partner is the locality and the limited is the Federal
23 Government.

24 Another way to look at it is you have the responsibility
25 between a mortgagee and a mortgagor. We have a lot of

1 experience with HUD in the UDAC process with the use of a soft
2 second to protect the Federal interest.

3 I would urge you to seek not to reinvent the process,
4 but to use time-tested, utilized forms of real estate
5 partnership that the private sector use and has been a
6 hallmark of 30 years of collaboration between the Federal
7 Government and localities, in which the Federal Government has
8 the responsibility for oversight, has the responsibility for
9 protecting the Federal interest, and in which the localities
10 have the responsibility for management and implementation.

11 I think there are several hallmarks to the process I
12 would urge you to put into the regulations.

13 First, there should be strict timing requirements.
14 Localities should be required to move swiftly. A
15 redevelopment authority should be in place within at least 16
16 months from the BRAC announcement, and a final plan to the
17 Federal Government within 18 months. This meets the Federal
18 interest of swift disposition and reduction of Federal cost,
19 the primary objective of BRAC to begin with.

20 Secondly, I think you should be much tougher with the
21 communities about what needs to go in to the land use plan you
22 get. Right now, it is an inadequate tool for the Federal
23 Government to exercise its responsibilities, nor does it
24 provide citizens the information they need to make judgments
25 about what their localities are doing.

1 The NAID comments are a very excellent beginning and I
2 commend them. I would simply urge you add the following.

3 First, land disposition of properties of this size is
4 never done in the aggregate. It must be done on parcels. The
5 land use plan must include a parcelization so you understand
6 the timing and character of the disposition of the asset.

7 Infrastructure costs must be understood by parcel,
8 because you can never figure out net gain unless you can
9 allocate cost. The only way to understand the allocation of
10 costs is to allocate costs to area wide costs, parcel costs,
11 and off-site costs, which are a legitimate component of any
12 real estate development, public or private.

13 Finally, the market analysis must distinguish between
14 the three different economic assumptions you recognize:
15 straight market, a market after government subsidy has been
16 brought to bear, and with economic development conveyance.

17 You are seeking, I think, in a not particularly clear
18 way to find the implicit subsidy generated by the economic
19 development conveyance. That is an important number to know.

20 The only way you can know it is if you produce market
21 absorptions that reflect different characters of land
22 valuation and disposition strategy. That should be a required
23 element of all plans.

24 You deserve what any partner knows, which is what is
25 happening to the land.

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1 Finally, clarity is needed on the development and
2 disposition strategy. The reuse plan should state the pace,
3 sequence, and method of disposition. It should define how the
4 Federal Government should be repaid and, in the same way you
5 pay off a mortgagee or you pay off a limited partner, it
6 should define how this will occur over time, allowing for
7 financing.

8 The Federal Government should then have 90 days after
9 receipt of this plan to either accept, modify, or reject. You
10 should give the community, if you have rejected it based on
11 clear findings -- it does not meet the required elements, it
12 grossly undervalues the land, it attempts to use local zoning
13 power to arbitrarily drive down value, not in the interest of
14 the Federal Government, or it fails to demonstrate a viable
15 development or disposition strategy, then you should reject
16 the plan -- you should then give the community a chance to
17 resubmit it and to meet your objectives. They should resubmit
18 the plan and if, on the second time, after an appropriate
19 period of consultation, the redevelopment authority continues
20 to demonstrate that they cannot act responsibly, either in the
21 community's interests or the Federal Government's interests,
22 then, like any limited partner, like HUD in a default
23 situation, like EDA if it is conveying, you then have the
24 right to step in and act directly yourself.

25 But what you need to do is to define clearly what you

1 want from the community, give them the responsibility to
2 implement that, and then, if they do not, as a last resort,
3 then the Federal interest must require your direct
4 intervention.

5 Finally -- and I know time is limited -- I think the
6 interim regulations make inadequate specificity about what
7 needs to go into the ROD. The ROD really should be what in
8 old HUD language we called the development and disposition
9 agreement. The ROD should specify the mutual obligations
10 between the parties for investment, for distribution of
11 assets, and for timing and management of the disposition of
12 property.

13 The ROD then becomes in essence, the terms of what in
14 the private sector I would call the mortgage, or I would call
15 it the limited partnership documents. In Federal jargon I
16 think the best model is, in fact, the old development and
17 disposition agreements that characterize the relationships
18 between redevelopment agencies, Federal instrumentalities, and
19 HUD, the entity responsible for oversight.

20 So I think the process can be simplified. The
21 responsibility for local government, for implementation, can
22 be matched with the Federal Government's responsibility for
23 oversight, so long as greater clarity is set for both and we
24 stay within, I think, a reasonably well defined body of both
25 real estate law and practice and a fairly defined set of

1 allocations or responsibility between Federal and local
2 jurisdictions.

3 Thank you very much.

4 [The prepared statement of Mr. Alschuler follows:]

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Testimony of

John H. Alschuler, Jr.

Hamilton, Rabinovitz & Alschuler, Inc.

T-2
Lay #4

I. *Introduction*

The regulations implementing the Pryor Amendment must allow communities to utilize closed or realigned bases as economic assets. Implementation must also insure that any substantial land value is shared between local communities and the federal government, once that value is realized. Given the overwhelming commonality of interests between communities and the federal government, a process can be designed that meets both jurisdictions' needs. Such a process must, however, respect these principles:

- The community reuse plan must provide the basic framework for reuse.
- The Department of Defense must share in any current or future positive value of the property.
- The responsibility for implementation must rest with local redevelopment authorities; the responsibility for oversight with the federal government.
- A simple process that clearly allocates responsibilities and contemplates an expedited time frame best serves all parties.
- Federal regulation must be compatible with local needs to obtain long term financing, meet lease obligations, and establish rational disposition strategies.
- Local actions must promote the development of the value of the real estate asset consistent with community needs.

Redevelopment can occur consistent with these principles: several models provide for a fair division of rights and responsibilities between two parties in a real estate transaction. For instance, in the case of both a real estate partnership and a purchase money mortgage, one party has the responsibility to develop the asset, while others have key rights of approval as well as the right to directly assume managerial control in the case of a default by the general partner or the mortgagor.

II. *Responsibilities of the Parties*

In the case of base reuse, localities should have the lead responsibility for land use planning, financial analysis, and development and disposition. Communities alone can determine the appropriate mix among economic development, public benefit, and market conveyances.

The federal role should be to establish clear and demanding performance criteria, then assess compliance with those criteria. Should a community fail to perform, the federal government has every right to assert direct managerial authority over the property, but only as a last resort.

III. Valuation

Similarly, an approach to valuation must balance the rights of the community with those of the federal government. Local authorities should not use their power to zone to artificially reduce value. However, the basic unit of economic analysis should be the entire base, not discrete parcels. Therefore, base properties should be appraised at their highest and best use consistent with the zoning established by the redevelopment plan.

IV. Overview of the Process

The regulations should set time lines for required actions, provide detailed guidance for the components of a reuse plan, establish the criteria for federal review, and determine federal responsibilities in the event of a community's default.

1. **Timing.** The regulations should require the community and the federal government to meet these deadlines, assuming that final congressional action on BRAC is day 1.
 - a. Establish a community planning committee within 90 days.
 - b. Prepare a preliminary draft of a reuse plan within one year.
 - c. Create a local redevelopment authority within 16 months.
 - c. Submit a final plan within 18 months.
 - d. Issue a Record of Decision within 24 months.
 - e. Meet development and disposition milestones established in the approved redevelopment plan incorporated into the Record of Decision.
2. **Required Elements of Land Use Plan.** The reuse plan must include:
 - a. A Land Use Plan and zoning requirements.
 - b. An evaluation of McKinney and other federal requests.
 - c. A parcelization plan, including any local platting requirements.
 - d. Estimates of infrastructure costs of the plan, including allocation to parcels and to area-wide costs, and allocation of costs to parcels set aside for each form of conveyance.

- e. An estimate of land utilization for non-public benefit conveyances.
- f. An estimate of market absorption under different economic assumptions:
 - i. assuming market prices, absent government subsidies.
 - ii. after government investment.
 - iii. divided between economic development conveyances and market transactions, based on reasonable community assumptions regarding the amount of land to be conveyed by each such method.
- g. An estimate of the market value of the entire property based on a development pro-forma built parcel by parcel, assuming a discounted cash flow after allocation of revenues to necessary infrastructure investments.
- h. An estimate of community benefit, including:
 - i. jobs
 - ii. taxes
 - iii. fiscal impact
 - iv. civic benefit

3. ***Implementation: A Development and Disposition Strategy.*** The reuse plan must also specify the:

- a. Pace, sequence and method of disposition of revenue generating parcels.
- b. Pace, sequence and responsible entity for development of public parcels.
- c. Financing strategy that addresses sources and uses of funds, including:
 - i. repayment of the federal government after repayment of other debt, if any.
 - ii. treatment of deferred interest payments on federal government debt, i.e. structure of carry forward agreements.
 - iii. estimate of other sources of investment capital.

4. ***Federal Government Review by DOD/Services.*** The regulations must provide for a review and approval process as follows:

- a. Within 90 days of receipt of the final plan, the federal government commits to:
- i. accept the redevelopment plan and authorize the redevelopment authority to proceed, or
 - ii. request modifications and require resubmission, allowing 90 days for resubmission and 90 days for subsequent review, or
 - iii. reject the plan in whole or in part, but only after (1) the community has had an opportunity to resubmit and negotiate, and (2) the federal government has made one or more of these findings:
 - (1) the plan does not include required elements
 - (2) the plan grossly undervalues the land
 - (3) the plan fails to demonstrate substantial potential for job creation
 - (4) the plan fails to demonstrate the viability of the proposed development and disposition strategy
 - (5) the plan was developed in a manner that precluded development of a community consensus as evidenced by a substantive, formal challenge made by a politically responsible entity that was not consulted during the planning process
- b. Following acceptance or rejection of the plan, the federal government drafts the ROD as follows:
- i. If the plan is approved, the ROD provides the basis for a legal contract setting forth the responsibilities of the parties, including:
 - (1) timing and amount of payments
 - (2) pace and character of development
 - (3) good faith effort to develop according to plan
 - (4) criteria for modification and renegotiation
 - (5) definition of default by redevelopment authority
 - ii. If the plan is rejected by the federal government, the ROD provides for:

- (1) the assignment of those marketing and disposition responsibilities the redevelopment authority wishes to take on to the redevelopment authority and/or:
- (2) the allocation of responsibilities to appropriate federal agencies.

1 MR. BAYER: Thank you very much.

2 Mr. Cunningham.

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1 STATEMENT OF KEITH CUNNINGHAM, POLICY ASSOCIATE,
2 BUSINESS EXECUTIVES FOR NATIONAL SECURITY

3 MR. CUNNINGHAM: I have no idea how this microphone will
4 work.

5 My name is Keith Cunningham. I work for Business
6 Executive for National Security. Thank you for letting me
7 testify here today.

8 I know that most of the panelists knows who BENS is, but
9 people in the audience might not. We are an organization of
10 business executives, top business leaders, who want to bring a
11 business-like perspective to the Department of Defense on
12 national security issues.

13 One of our big issues is base closure. Businesses limit
14 their overhead, just like the Department of Defense has to
15 close unnecessary bases.

16 Last year, we published a major report that I hope most
17 of you recognize on 24 communities who are trying to recover
18 from base closure. This is where most of our experience on
19 this issue is drawn from.

20 We also work closely with a lot of you folks, people in
21 the administration, Congress, and the Pentagon, to try to help
22 communities recover better. I think we did a pretty good job.

23 Most of the people here are not agreeing with most of
24 the plan, most of the Interim Rule. Fast track, cleanup, on-
25 base transition coordinators, and increased planning grants

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1 are all great ideas. Most people are concerned about the job
2 centered base disposal. I will skip right to the solution.

3 If this is implemented, it is going to cause three major
4 problems. It is going to create additional obstacles, not
5 eliminate obstacles for communities. It is going to reduce
6 the efficiency and the savings of base closure, and it is
7 going to go against the intent of Congress and the President
8 when they enacted this.

9 The BENS approach is to put communities first. First,
10 communities should be able to submit a draft reuse plan before
11 the property is ever marketed to developers or any companies.
12 Once the reuse plan is submitted, DOD should use that plan to
13 then market to developers who would comply with that plan. If
14 disagreements occur between the community and the department
15 over what complies, the community is always right because they
16 created the plan.

17 If there are no good bids for that land, then DOD should
18 convey that to the community. But they should retain profit
19 sharing. I think that is important.

20 A lot of the major savings from base closure come from
21 property sales. DOD cannot just give that away.

22 But I think that you could have profit sharing from the
23 very beginning. Profit sharing allows the Department of
24 Defense and communities to work together to sell the land. In
25 the beginning, if the department sells land and it does not

1 give any of the profits to the communities, the communities do
2 not have any money to market the less desirable parts of the
3 base.

4 Remember, people are going to want to buy the best
5 parts. If the department keeps all the profits from that, who
6 is going to help market the less desirable parts, the
7 contaminated parcels?

8 Let me move on.

9 This is not a big problem with the law. The solutions
10 are very simple.

11 On page 2 of my testimony, you see a flow chart which
12 has exactly your flow chart. All you have to do is insert
13 under the third decision a community reuse plan. Instead of
14 having the community at the very bottom of the chart, you
15 should move the community up. I am not saying give away all
16 of the profits of base closure. I am just saying let the
17 community have a say in who you sell the land to.

18 I am available for questions.

19 Thank you.

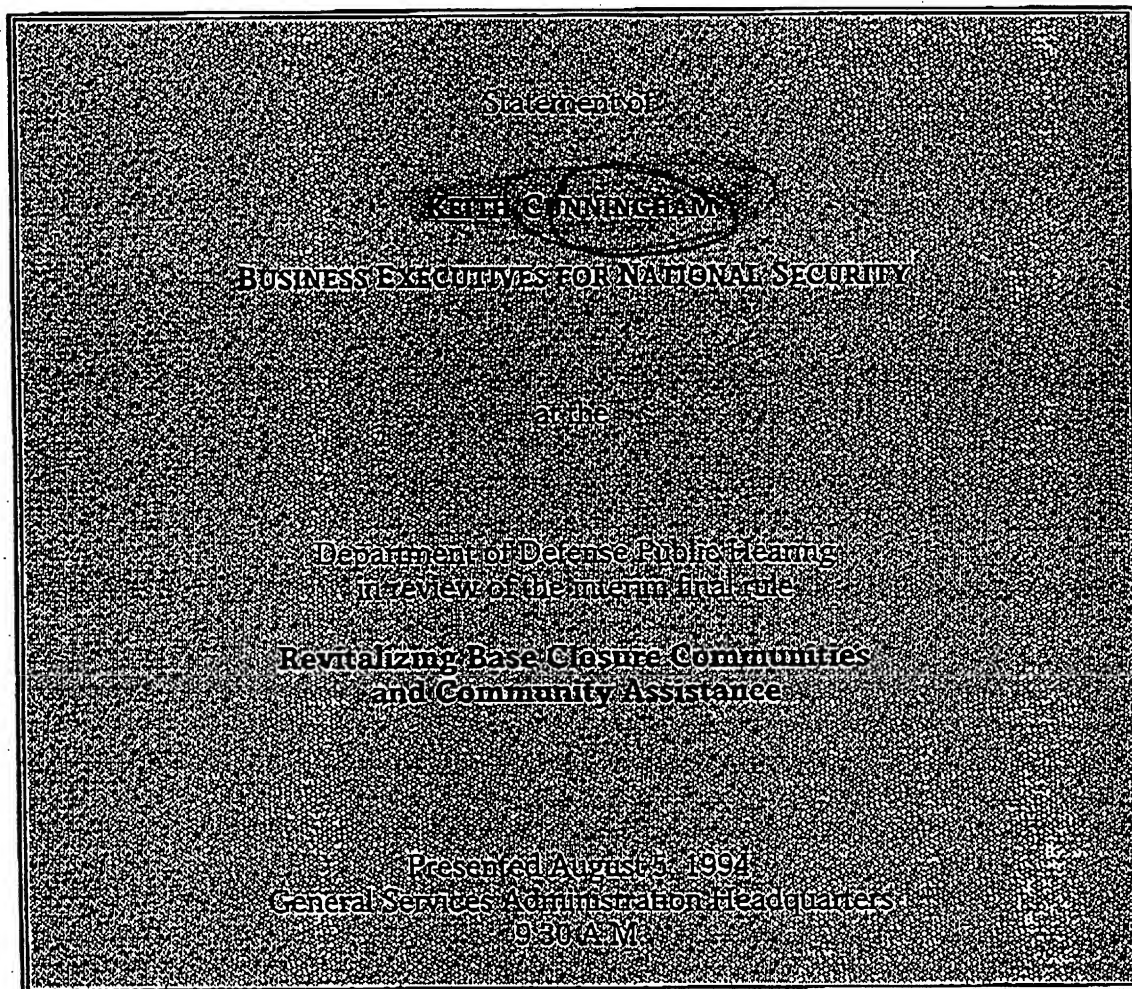
20 [The prepared statement of Mr. Cunningham follows:]
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25

Business Executives
for National Security, Inc.
1615 L Street, N.W.
Suite 330
Washington, D.C. 20036
(202) 296-2125
(202) 296-2490 FAX



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Lay - #4 #5



MR. SECRETARY AND MEMBERS OF THE PANEL, thank you for inviting me to share our perspectives on the important topic of base redevelopment and land transfer. I am Keith Cunningham, a Policy Associate with Business Executives for National Security (BENS). BENS is a national, non-partisan organization of business leaders working to strengthen national security by promoting better management of defense dollars, advocating measures to make the economy stronger and more competitive, and finding practical ways to prevent the use of weapons of mass destruction.

BENS has been engaged in the base closure and reuse issue since the current process began in the late 1980s. Over the last two years, we have been conducting a comprehensive study of the communities affected by base closure. Our 1993 report, *Base Closure and Reuse: 24 Case Studies*, and the update we are currently finalizing, provide details on both the tremendous potential and the substantial obstacles involved in redeveloping a closed military facility.

During 1993, BENS worked very closely with the Administration, the Department of Defense (DoD), and Congressional officials to develop policies that would help communities recover from base closure. That work led to two important policy directives for spurring the recovery of communities affected by base closure.

1. The President's Five-Point Plan for Revitalizing Base Closure Communities, announced on July 2, 1993.
2. The sections of the Senate Democratic Defense Reinvestment Task Force's Recommendations included as amendments to the FY 1994 Defense Authorization, passed on November 10, 1993.

The Interim Final Rule: Revitalizing Base Closure Communities and Community Assistance implements these two directives. Although BENS made a number of specific recommendations in our July 5, 1994 formal comments on the interim rule, I would like to focus on our most important recommendation — put communities first.

Overall, these regulations will do much to help communities overcome the substantial obstacles to redeveloping a closing base. Our research shows that affected workers and communities will greatly benefit from many of the regulations' provisions, including fast-track environmental clean-up, on-base transition coordinators, and larger planning grants. These provisions also closely mirror the intent of the President and Congress.

While these aspects of the regulations will spur private investment on closed bases, BENS does have a number of concerns about the regulations in their current form. Chief among these concerns is DoD's failure to adequately consider the local community's plans for redeveloping the base. Instead, DoD proposes that it auction off the most desirable property long before the community can submit a reuse plan.

If implemented, this provision would create additional planning obstacles for communities and could actually impede efforts to create new jobs at the closed facility.

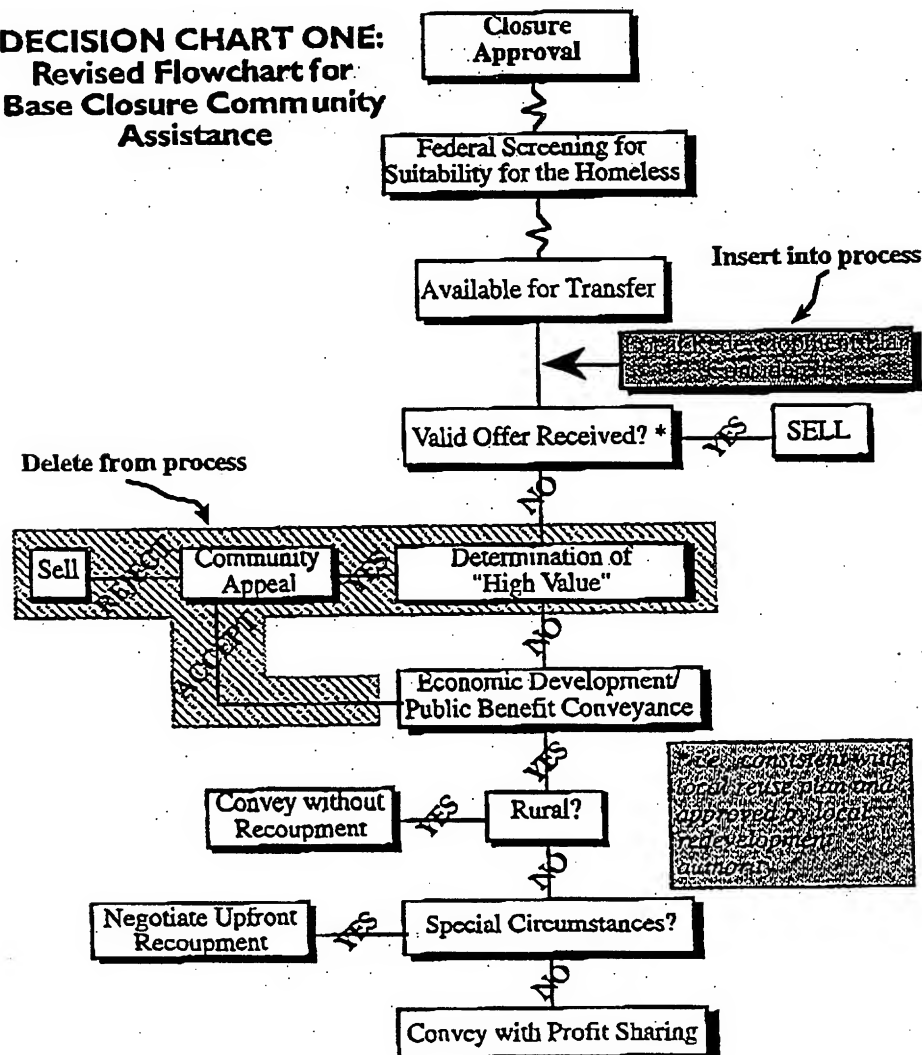
Moreover, Congress and the President never intended for DoD to sell base property without considering the communities' plan.

The BENS Approach: Putting Communities First

Instead of allowing DoD to sell the most valuable base property before the community can consider other options, we believe the community should be given an opportunity to submit a draft reuse plan providing a broad vision of the future of the base before the land is sold. As their ideas mature the community should submit more detailed plans.

By working with the community, DoD can better determine if the projects of interested companies and developers are consistent with the community's overall strategic plan for the property. If so, DoD should sell the land. If the bids conflict with the communities' plan, other options should be considered. Additionally, the community must have the final say on what complies with its own reuse plan.

**DECISION CHART ONE:
Revised Flowchart for
Base Closure Community
Assistance**



If no valid purchase offers are received, DoD should convey the land to the community following existing procedures. After conveyance, however, DoD should retain profit sharing rights in the event that the community later sells the land. DoD should consider profit sharing on the property it sells to avoid competing for tenants and to help finance the community's continued marketing effort for the less valuable property.

DoD can easily amend the current plan to place a higher priority on community reuse plans. Decision Chart One shows the changes required to put communities first.

Why Put Communities First?

Raising the level of community input is required for a number of important reasons.

- Communities must control the redevelopment of a neighboring base. Losing control of important portions of the base can destroy the community's plan for the other portions. Community planning is already disrupted when land is retained by either the federal government or a homeless provider. Allowing DoD to sell additional parcels without regard to the community's plan would make this problem significantly worse. The community knows what is best for its own long-term growth and stability.
- The base closure process provides a natural pause for community planning. On average, bases take two and a half years to close. After the federal and homeless screening, most communities still have more than a year to develop a plan before closure. Once the community agrees on a draft reuse concept, DoD can use those plans to help market the base.
- Redundant marketing efforts by communities and DoD are at cross purposes creating unnecessary inefficiencies. Dueling marketing efforts would also confuse potential tenants. By considering the community's plan in advance, DoD can cooperate with the community to find tenants agreeable to both parties. Profit sharing from the beginning would further enhance the bond between communities and DoD and increase the potential cost savings from base closure.

Conclusion

When President Clinton introduced this plan for helping base closure communities on July 2, 1993, he stated,

I believe if a community has pulled together and produced a real plan for job creation and economic growth, the federal government must pitch in by giving that base to the community at a discount, or in some cases even for free.

In this statement, the President shows his intention to help support community planning efforts.

Instead of enhancing local efforts, these regulations pre-empt the community by selling a site's most desirable land before the community can create a plan. BENS suggests that both the government and communities would benefit by returning to the President's intent and putting the community first.

1 MR. BAYER: Thank you very much.

2 MR. BAUR: Cunningham, could you please read to us
3 literally what that chart says. It does not come across in my
4 copy.

5 MR. CUNNINGHAM: Thank you.

6 Initially, you have the closure approval.

7 MR. BAUR: Just the word in the block.

8 MR. CUNNINGHAM: I'm sorry. In the block is "local
9 redevelopment plan considered."

10 On your initial plan, you did not have the reuse plan
11 come until the very end, after much of the property has been
12 sold off.

13 MR. BAUR: Thank you.

14 We have heard testimony from two Members of Congress and
15 five individuals representing very diverse community
16 interests. I would like to take about five or ten minutes now
17 to entertain questions from the panel.

18 Whoever would like to start, go ahead.

19 Rob?

20 MR. HERTZFELD: I have a question of Mr. Alschuler.

21 You discussed the possibility of having the Department
22 of Defense as a limited partner and the community as a general
23 partner. When you establish that partnership, you need to
24 establish what each party is bringing to the table. I was
25 wondering if you have any suggestions of how we can establish

1 what the value is of what the Department of Defense is
2 bringing to the table.

3 MR. ALSCHULER: The department is the land owner. The
4 question then becomes how do you value the land.

5 I think it is, first, fundamental that it be valued as
6 an entire parcel. In real estate, as I'm sure you all know,
7 value is usually only obtained in the latter phases of
8 development. Real estate is a business in which you lose
9 money in the initial phases of virtually any real estate
10 endeavor because your capital costs come early and they are
11 repaid by a longer-term revenue stream. So you have to value
12 the entire parcel.

13 You then need to parcelize it so you can figure out how
14 a rational disposition strategy that maximizes net value is
15 created. Then, like any limited or holder of a mortgage, you
16 figure out after you cover your costs or your deal, how do I
17 handle sales, how do I handle the cost of creating amenities,
18 because many of these places do not have the amenity structure
19 necessary to be marketable commodities. They need open space
20 systems, they need retail, they need the things that make a
21 viable real estate product.

22 So, after I've paid for my infrastructure, I've paid for
23 my marketing costs, then the record of decision, essentially,
24 the limited partnership contract, needs to figure out how
25 revenue is distributed between the parties after the expenses

1 of the joint venture are covered. Like in any real estate
2 deal, expenses come first. As I said, they need to be off-
3 site, area-wide, and parcel expenses. Then you distribute
4 over time, as defined by the record of decision.

5 That allows you to finance. The key thing here is how
6 do I get access to the tax exempt market. I have to be able
7 to bond in order to be able to rebuild. Right now, you have
8 produced regulations that make it impossible to bond.

9 So I've got to be able to bond so I can create my
10 financing stream and then treat my land owner fairly in accord
11 with the distribution.

12 Now, there is a long discussion about how you treat
13 carried interest and the rest, which I think is a more
14 technical discussion than we want to have. But I think that
15 is an overview, Mr. Hertzfeld.

16 MR. BAYER: Anyone else?

17 MR. BAUR: I would like to ask the panelists a question
18 that actually Congressman Farr raised. The net profit
19 reference that we made in the regulations to the FAR
20 regulations is not appropriate. Do you have any other model
21 to suggest on how we would calculate appropriate expenses and
22 net profits? Is there some existing program or something that
23 would be useful to us?

24 [Pause]

25 MR. BAUR: Let me try again. I hope the microphone is

1 on now.

2 A question has been raised several times and by
3 Congressman Farr at the beginning that maybe the reference to
4 the Federal Acquisition Regulations as a model for figuring
5 out net profit was not appropriate. I am asking if you or any
6 of the future speakers have a good suggestion as to a good
7 model for how we would do that.

8 MR. ALSCHULER: I think there are two very good models
9 which are in very common use. The first is to look back at
10 old Federal redevelopment law and figure out how you repaid
11 the Federal Government for parcels purchased with Federal
12 money and put into use by local redevelopment agencies.

13 The second model is the model today used in virtually
14 every joint venture I and others are engaged in, in which you
15 have exactly this situation. One party contributes the land,
16 another party contributes zoning entitlements, the management
17 of the deal and their ability to raise capital to develop the
18 property. Then the question is when you create a structure in
19 which the parties have contributed those to a partnership, how
20 then do you distribute? This is Real Estate 101.

21 There is a multiplicity of very clear ways in which you
22 value those interests and pay out over time.

23 MR. BAUR: I guess I was asking you for something, as we
24 tried to do the first time in the regulations, something that
25 we could refer to that is set forth in a set of regulations,

1 something that we could sort of incorporate by reference and
2 bring in an existing process, rather than just saying it's
3 done all the time in various transactions.

4 MR. ALSCHULER: I think what you are going to have to
5 do, or at least what I would urge you to seriously consider,
6 is state that the record of decision must include as the local
7 plan should include -- you should not have to create this from
8 scratch, Mr. Baur. You should require localities to submit to
9 you a profit-sharing agreement that values each component of
10 the deal and suggests to you a payout over time.

11 So if I were sitting in your chair, I would amend the
12 regulations to require the local government to give to you a
13 development disposition strategy that values each component to
14 the transaction and that suggests to you a payout and
15 ownership structure over what is likely to be 10 or 15 years.

16 You then have a proposition in front of you that you can
17 review. You should then publish in the regulations the
18 criteria on which you would have the basis to challenge or
19 reject it. If they fail to value your land fairly, you should
20 reject it. If they value your land fairly and suggest a
21 payout requirement, you should accept it. I think that is the
22 way I would handle it if I were in your shoes.

23 MR. MANUEL: As a follow-on to that, would that include
24 the community providing the mechanism for the operation and
25 maintenance of the facility while it is being transitioned?

1 MR. ALSCHULER: Exactly. These are all part of the
2 transaction. Parts of the cost of a transaction are how do I
3 maintain the asset while I am in the process of disposing of
4 it. Like any business, you have overhead, and overhead is a
5 cost of a transaction. That should be valued fairly as the
6 component of the process of evaluation.

7 MR. BAYER: I wonder whether the other panelists have
8 any views on some of the points that Mr. Alschuler made with
9 regard to expecting more of communities with regard to the
10 details of their plan as a balance with the flexibility and
11 the cooperation that the Federal Government provides to the
12 transactions? We have some very diverse communities here and
13 I am wondering if that is something you are comfortable with.

14 MR. BLUDAU: I think we would welcome a partnership like
15 that. It would give us the opportunity to control the types
16 of jobs that are coming in, which is a prime goal in our
17 community. We are not after just any jobs because there are
18 certain jobs that are being lost. We want to keep those
19 people employed in the community. It allows us to phase in
20 the infrastructure that is required because there will be a
21 lot of capital investment on the local level to bring those up
22 to a marketable standpoint. We don't expect that the military
23 is going to make them market ready when they turn them over to
24 us. So that is a joint venture between the community and the
25 military that is going to be required. We will welcome that.

1 MR. BAYER: I'm not sure I am suggesting a joint
2 venture, particularly. But right now we have had this
3 opportunity to sell, in consultation with the community, and,
4 obviously, the word "consultation" is not nearly strong enough
5 for most of you.

6 But it seems to me that the proposal is that we require
7 the reuse plans to be perhaps a lot more robust than they have
8 been. Frankly, we have very little in the way of what
9 requirements are on the reuse plans. I am wondering if that
10 is a positive step as a quid pro quo, so to speak?

11 MR. SMETHERAM: I think, for our part, we would probably
12 not want to get into as much specifics and detail in that
13 reuse plan as may have to be. But we would prefer to work
14 with our military departments with a general framework as that
15 reuse plan. I think the more you begin to add in to those
16 reuse plans, the more complex and longer they are going to
17 take to get done. That is just a general comment.

18 MR. HERTZFELD: Wouldn't the difference be between the
19 plan, the base reuse plan, and then the application for an
20 economic development conveyance?

21 MR. SMETHERAM: Yes.

22 MR. HERTZFELD: So you are suggesting, Mr. Smetheram,
23 that the plan should be general but the application for the
24 benefit that you are asking for be detailed, and you're
25 satisfied that that is okay?

1 MR. SMETHERAM: Yes, we would be. And we recognize that
2 in that implementation, as I think was mentioned, we are going
3 to have a lot of complex capital expenditure issues and we are
4 going to have to really work that out. We are going to have
5 to talk, in our case, with the Navy on a lot of those capital
6 costs.

7 CAPITAL DURGIN: I have a question.

8 You talked about letting the local community, or the
9 redevelopment authority, establish sort of the value as part
10 of the plan. Then you said it would be up to the military
11 department or whoever to decide whether that is a fair value.

12 I'm still not sure what -- and I think it goes to Doug's
13 question earlier -- I'm still not sure whether those people
14 are going to be any more qualified at that time to judge
15 whether that is a fair value. And there will, of course, be
16 folks who will say if I am responsible for valuing something
17 that I am going to be getting, it is going to be in my
18 interest to try to value it lower than it might be actually
19 worth later on.

20 Do you understand the basis for my question?

21 MR. ALSCHULER: Yes, Captain, and I think there are
22 three parts to it.

23 First, you have to define what fair value is. I think
24 fair value has to be defined as the property, as it will be
25 redeveloped, consistent with the local redevelopment plan.

1 That is the only rational form of valuation that I think you
2 can find here.

3 Second, I think the question really then gets to motive:
4 how do you get the parties to have the same motive to value
5 fairly?

6 I think you do this when both parties have an economic
7 interest in the outcome of the valuation. If one party has
8 its interests served by valuing low and the other party has
9 its interests served by valuing it high, you are likely to see
10 two different interests and, therefore, two different
11 valuations. This is why I think both as a matter of equity
12 and as a Federal taxpayer you need some kind of revenue
13 sharing. But also I think in order for the partnership to
14 work here, both parties have to have an interest in a creation
15 of a fair value.

16 Thirdly, I think the plan -- and I think Mr. Hertzfeld's
17 comments are exactly right -- I think the plan needs to be a
18 general land use plan, but the development and disposition
19 section needs to have a fairly detailed economic analysis in
20 it. You need to require the information necessary for you to
21 draw your own judgment by valuation, and I think you can do
22 that in one of two ways. You can require the information and
23 then obtain your own, independent, third party appraisal. Or
24 you can require the local community to submit an appraisal to
25 you that you can then review.

1 I think you can go at it either way. But there is going
2 to need to be, as there is in virtually any transaction, the
3 need for an appraiser.

4 I don't know of any governmental entity -- state or
5 local -- that transfers title of an asset without an
6 appraisal. You would be foolish to do so, and I think you
7 need that verification.

8 What is key, as in any appraisal, is what are the
9 instructions you give the appraiser. Everybody is happy with
10 the appraiser. The question is how do you instruct the
11 appraiser. That is what you argue about in the transaction.

12 I think what is needed here is a more robust definition
13 of fair market value so you have something that speaks real
14 estate talk to an appraiser, that gives the appraiser the
15 instructions that they will need in order to produce a
16 document that becomes a framework for discussion.

17 The key here is the instructions to the appraiser. That
18 is what will drive the fairness of the process.

19 MR. BAUR: What if those instructions are based on the
20 community reuse plan in large part? Then it would seem that
21 the community has a lot of leverage if they pick a plan that
22 is not likely to generate a lot of income for the property,
23 such as a lot of park land or something like that. That
24 certainly devalues the Federal property.

25 MR. ALSCHULER: That's right. And I feel very strongly

1 that if the community say, for the sake of discussion, takes a
2 very high value parcel and says we are going to zone it at 100
3 percent par, then the Federal Government has a legitimate
4 basis on which to say we're sorry, but you cannot take the
5 value of our land. On the other hand, there are communities
6 that need park lands. Parks can be a very valid and important
7 part of community reuse plans. If the community makes a
8 compelling statement as to why there should be a public
9 benefit conveyance of park land, I think deference should be
10 given.

11 Finally, if they say you are going to zone it park
12 land and then they get rid of you, you obviously have the deed
13 restrict it so that it must always be park land, so they don't
14 take it as park, get you out of the picture, and then, next
15 month, up-zone it. But there is a fairly substantial body of
16 constitutional law that says it is not appropriate for local
17 government to utilize its regulatory authority as a means of
18 affecting its ability to purchase land, either through
19 condemnation or on the fair market. I think the localities
20 understand, at least most do, what is an appropriate and an
21 inappropriate use of zoning.

22 But I think you have a perfectly legitimate right, as a
23 land owner, to pass judgment as to whether or not the land use
24 authority is a fair means of handling public benefit
25 conveyance or is a back door way of driving the value down.

1 MR. BAUR: Do all of you agree that having deed
2 restrictions in the deed coming to you -- let's say that if
3 you plan it as park land, it stays park land -- would be
4 something acceptable and agreeable? Or is that a problem with
5 some of the rest of you?

6 MR. CUNNINGHAM: As long as you have criteria for how
7 you would change that decision. I mean, if they do want to
8 turn it industrial and create jobs, there should be a way that
9 the government can recoup their loses. If mean, if they want
10 to create jobs and there is going to be money made there, the
11 department should be able to get some of that.

12 I also believe that the community should be allowed to
13 rezone for parks, and I'm not sure the department should say
14 you have to have an industrial park here. At Puget Sound
15 Naval Station, they want to turn that entire thing into a
16 park. It is right in Seattle and Seattle needs parks.

17 But I also think it would have very high market value if
18 they were to industrialize it.

19 MR. WAGNER: Let me ask this question, then.

20 Mr. Alschuler, you said in your statement that the
21 department could reject a plan if it failed to demonstrate
22 substantial potential for job creation. Given this and very
23 disagreements on what best use might be, what type of guidance
24 should the services be given to evaluate that, whether the
25 plan does, indeed, demonstrate potential for job creation,

1 substantial potential? It is kind of a vague thing.

2 I mean, you would want to give the services some
3 guidance or some criteria to say that this is what you ought
4 to be looking for. What might you suggest, then?

5 MR. ALSCHULER: What I would look for is a reasonable
6 demonstration of the marketability of the property to entities
7 that will purchase or accept it under an economic development
8 conveyance and create jobs.

9 Now, since you are not going to be able to have actual
10 prospects, you are not going to be able to say -- well, some
11 may. I think some of my colleagues here in fact have
12 prospects, and one of the reasons why they are so frustrated
13 by this process is they are ready to go and sell tomorrow and
14 benefit their communities.

15 If you were to take Charleston, for example, there is, I
16 think, in our community a substantial prospect, though it will
17 take 10 to 15 years to produce serious job creation driven by
18 the plan. Charleston should be required to set forth a clear
19 and convincing rationale with market studies, with a rate of
20 absorption, with a description of the kind, character, and
21 amount of the jobs to be created.

22 Now I know this runs contrary to the wishes of the
23 services, quite properly, to dispose of this property and just
24 go away, but, unfortunately, I think you are going to have to
25 create monitoring provisions that say okay, here is a

1 milestone at year five, here is a milestone at year seven,
2 here is a milestone down the road.

3 If you take the Charleston Naval Shipyard, this is a 20
4 to 30 year long real estate proposition, in the best case. An
5 entity like Cecil Field will probably be longer. You just
6 simply cannot absorb that much land. Griffiths Air Force Base
7 is another 20 to 30 year long development process.

8 The services have a choice to make. They can either,
9 like any land seller, take what they can get now and go away,
10 which is not maximizing your long-term value, though it may be
11 a rational choice to the service. Of, if, as the regulations
12 seem to imply, they want to stay in as value gets created,
13 then they have to be willing to stay in over the 10 or 15 year
14 period of time when the value is, in fact, created in a real
15 estate transaction.

16 That is a hard choice. I don't think the answer to that
17 is easy. There are compelling arguments as to why the
18 services should not want to maximize the value, get out
19 quickly, and understand they are taking a loss, and there are
20 also arguments as to why they should not do that. I think
21 that is a tough debate, which I am sure the services have been
22 having and will continue to have.

23 But in this instance, Mr. Wagner, I think you have to
24 set out a series of milestones in performances over what is
25 going to be an extended period of time and commit yourself to

1 some reasonable monitoring. That is the only way you are
2 going to do it.

3 MR. (ROBERT) WAGNER: It seems to me that what it all
4 boils down to is what you are requiring are substantive
5 studies during some initial phase of this operation, and I
6 think that should be the requirement, as opposed to trying to
7 come up with some sort of cookbook things that somebody looks
8 at and checks off saying yes, it falls within this range or
9 this falls within that range. But, in addition, if this is
10 going to be some kind of partnership, it seems that the
11 Department of Defense could also initiate some of those
12 studies if they felt they were being, oh, I don't know what
13 you would call it, if they felt that there was not a
14 legitimate effort being made on the part of local government.

15 But the park issue, though, is not something that the
16 Federal Government should view as being just some means of
17 getting the land, either. There are serious, legitimate needs
18 for park land, and that needs to be considered.

19 But the deed restriction aspect very clearly eliminates
20 the problem where they get the property and then turn around a
21 year later and develop it for their own use.

22 MR. BAYER: This has been a really useful discussion,
23 and I think I am going to exercise the prerogative of the
24 chair and conclude it at this point. We will move on to our
25 next panel.

1 We will take about a two minute break while our GSA
2 folks try to fix the microphones. Thank you ever so much.

3 Again, if you have any further statements for the
4 record, we will need them by the end of the day.

5 [A brief recess was taken.]

6 MR. BAYER: I think we are in as good shape on the
7 microphones as we are going to be. So would the second panel
8 please be seated.

9 [Pause]

10 MR. BAYER: Again, I can see from our first panel, that
11 we are running behind time. So we are going to try to have a
12 little discipline ourselves and we will ask you to exercise
13 that same restraint. I would ask that you summarize your
14 comments and put them in the record so that we do have time
15 for discussion. I think we had a very fruitful discussion
16 with this last panel and I am looking forward to that this
17 time as well.

18 We have folks again representing a diverse group of
19 installations and communities. Mr. Rodd Grimm is President of
20 Thicksten Grimm Burgum, Incorporated. He is very much
21 involved in the redevelopment of Fort Ord.

22 Mr. Alan Rubin is Vice President for Special Projects of
23 The Beacon Council, which is in Miami, and has been working on
24 the redevelopment of Homestead Air Force Base.

25 Mr. David Madway is the General Counsel for the City of

1 San Francisco Redevelopment Authority. San Francisco, of
2 course, faces multiple closures and realignments. So Mr.
3 Madway has a large portfolio of interests.

4 Finally, but not least, is Ms. Terry Gillen, who is the
5 Director of the Philadelphia Office of Defense Conversion, who
6 has particular concerns about the Philadelphia Naval Shipyard.
7 But she has other defense closures in her area as well.

8 Thank you very much.

9 Why don't we start with Mr. Grimm.

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1 GROUP 2

2 STATEMENT OF RODD GRIMM, PRESIDENT, THICKSTEN GRIMM
3 BURGUM, INCORPORATED

4 MR. GRIMM: Probably I have had the first experience
5 along with representatives from the University of California
6 and California State University of negotiating a 2903 closure.
7 I am going to try to just talk a little bit about some of the
8 things that we found because it is a lot different reading
9 those regulations and then trying to negotiate what they mean.

10 What we found is we got a lot of surprises.

11 I guess the first comment that I would like to make is
12 we found a lot of things in the regulation that came down that
13 we did not really find in the law. There is a whole number of
14 examples of those. I know there was one meeting that Mr.
15 Kleiman participated in with Congressman Farr where some of
16 those things were pointed out. I think that in your process
17 of rewriting, you need to go back to the law and make sure
18 that you have not included some things in there, in the
19 regulations and the rules, which the law did not intend.

20 The second thing is throughout our whole process, I
21 guess that if you take the Interim Rule literally, where it
22 says that 2903 should be used only as a last resort, that
23 seems to be the Pentagon's position. We spent about a half
24 year really negotiating with the Pentagon just to get to 2903.

25 The services wanted, essentially, to transfer it under

1 an educational public benefit transfer. This would not have
2 worked. I go back to my core example of Senator Harkin having
3 to pass special legislation to allow the Des Moines school
4 system to rent to the YMCA to house homeless.

5 If you are going to do a research park or if you are
6 going to do technology transfer or incubators, those won't fit
7 under an educational public benefit transcript, and the
8 Department of Education, even if they approve your initial
9 application, probably will be forced to come back and do
10 something like they tried to do in Des Moines.

11 Interestingly enough, we are starting to work with
12 another base, where we are starting to go through the same
13 thing. They are saying you should take this under an
14 educational public benefit transfer. It is strictly not an
15 educational project. It is a jobs development project.

16 Some reference was made to the net income issue. I
17 would like to say that what we found when we talked about
18 allowable and allocable costs was that the CFR's were very
19 interesting.

20 One CFR came from the General Services Administration
21 and applied somewhat. But the other CFR, the one that came to
22 restrict everything, basically was designed for people who are
23 buying consulting services and products, and your allowable
24 costs were based on a contractor like Lockheed or BDM or
25 somebody that is doing business with the government that way.

1 I think a question was asked that addressed what should
2 you do about that. I think that the only way you are going to
3 get your allocable cost structure the right way for jobs
4 development and for a real estate project is to go back to the
5 drawing board and sit down with some people who are in this
6 business and come up with your own set of cost criteria. This
7 is because this is different than anything these CFR's are
8 trying to deal with.

9 I will make one other comment on the CFR's. The first
10 set of CFR's refers you to a second set of CFR's, which
11 referred you to a third set of CFR's, and I don't think we
12 ever got to what the last set was. It was very, very
13 confusing in part of the process.

14 The other thing that happened in our negotiating was
15 that the notification issue is just paramount. If the
16 universities or the communities have to notify DOD that they
17 want to take and have some people come in in advance, you
18 could spend an entire year marketing people and then find out
19 that you are just not going to get them to come to your side.

20 The last thing is that the Interim Rule seems to be
21 really basically designed for government-to-government. What
22 you have not done is designed a way to bring the private
23 sector in up front. There is no basis to transfer under 2903,
24 really, to a private sector organization.

25 There is no basis, really, in a lot of cases to get the

1 people that are going to make the investment into the process
2 early. If you are going to have successful defense
3 conversion, that probably would be my number one priority in
4 writing the Interim Rule.

5 I would like to state that the University of California
6 is available to come and work with you further in the process
7 of writing the rule and to give you our experience in terms of
8 what happened and what really happens when the rubber meets
9 the road.

10 [The prepared statement of Mr. Grimm follows:]
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Lay #1

**PUBLIC HEARING ON THE INTERIM RULE
IMPLEMENTING TITLE - XXIX OF THE
NATIONAL DEFENSE AUTHORIZATION ACT
OF 1994 - THE PRYOR AMENDMENT**

**BY MR. RODMAN D. GRIMM
THICKSTEN GRIMM BURGUM, INC.**

**Prepared with input from
Ms. Lora Lee Martin, University of California, Santa Cruz**

During June and July 1994, the University of California and the California State University system spent hundreds of man hours negotiating the conveyance of parcels of Fort Ord property. This is the first, and as of this date the only transfer of Department of Defense property under the Pryor Amendment. As a technical consultant to the University of California, Santa Cruz, I participated in every aspect of the negotiation. The testimony which follows reflects my personal views of the Interim Rule, based on the problems which we encountered in our negotiations with the Department of the Army.

For nearly six weeks in both California and in Washington, DC I worked with teams of real estate professionals and lawyers, both civilian and military, to hammer through the first conveyances by the Department of the Army, and the Department of Defense under the Pryor Amendment. At one time we had nearly twenty professionals sequestered away for most of a day working on what, in retrospect, is a pretty straightforward Deed and Memorandum of Agreement. I feel that much of these prolonged negotiations resulted from unclear guidance by the Interim Rule, conflicting priorities and goals of the law and the Department of Defense, and, in some cases, inappropriately determined citations in the Rule. I urge you to use our negotiation experience as a guide for modification of the Interim Rule, and for subsequent implementation actions.

The most frustrating aspect of the Interim Rule for the Pryor Amendment is the seemingly inconsistent message it sends with regard to a focus on community reuse and economic redevelopment vs. revenue production for the Department of Defense. Specifically, though the President's Five Point Plan and Public Law 103-160 set the framework for the former, the Interim Rule clearly sets in motion a revenue incentive for the Department of Defense. This incentive, found in directions such as market test and profit sharing guidelines of the Interim Rule, combined with existing legislation which mandates that revenue be generated from the disposal of Department of Defense property, and deposited into the Base Closure Account, puts the members of the applicable Service, the Army in the case of Fort Ord, in a conflicting position. Are they to work towards assisting the communities with the best and most expeditious reuse? Or are they to negotiate the terms of the conveyance in

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a manner that ensures the greatest return to the Department of Defense? As promulgated, the interim rule does not provide much flexibility for tailoring to each unique reuse situation, leaving the Department of Defense with strong direction and incentive to ensure revenue return. If job-centered property disposal is truly the goal, then the appropriate military service should be encouraged to do so in a manner that works best for the communities. To be truly effective, the intent of the law, and the President's Five Point Plan, needs to be revisited and then reflected more clearly and strongly in the Implementing Rule.

Further, the conceptual and actual process of property disposal is in conflict with the community reuse message of the President and Congress. If the community reuse needs and desires are of paramount concern then they should be the economic redevelopment driver. While the resources necessary for a successful reuse effort should be seeded by the Government, the Government should not be the driving force. For instance, the Base Closure Community Assistance process, as outlined in the Interim Rule, does not include reference to 'community statement of interest' or 'local redevelopment plans' until after land has been screened for uses by the federal government, the Homeless providers, and other public benefit conveyances (i.e. state agencies). Additionally, job-centered property disposal appears in the "process summary" as the last option. If the Pryor Amendment method of conveyance was developed in response to the demands and needs of communities across the country why does job-centered property disposal end up as a "last resort" tool? My understanding is that the genesis of this method of disposal was in response to the other methods precluding or limiting successful redevelopment. Shouldn't then, this method of conveyance be available to the communities at the beginning of the process if it helps to increase the likelihood of the reuse success? Also found in this "process flowchart" is the particularly distressing indication that if the land has a "high value", the Department of Defense will sell that land without ANY community input if a "valid offer is received." Who determines what a valid offer is? This issue was magnified in the case of the Fort Ord property transfers through early statements by Department of the Army officials as to their estimates of the value of the land, and their intent to sell that land. These comments appeared to be subjective, subject to questioning as to their basis, and served as a barrier to open discussions and interactions throughout the process.

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The Interim Rule clearly attempts to implement current Department of Defense policy which is to have a single Redevelopment Authority for each military installation designated for closure. The Interim Rule reflects this intent in the definitions Section which states:

- "(g) Redevelopment authority. Any entity, including an entity established by a State or local government, recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation and for directing implementation of the plan."

Although the stated Department of Defense policy of having one Redevelopment Authority responsible for developing and implementing a reuse plan is clear, in practice many Department of Defense actions undermine this policy. One example is the Naval Station Long Beach, where the City of Long Beach has been designated the Redevelopment Authority, yet the reuse has been delayed due to a disagreement between the City of Long Beach and Adjacent Communities concerning how certain parcels should be reused, and redeveloped. The conveyance of these properties, has been delayed pending further Navy analysis which will determine ultimate parcelization, reuse and property disposal. It therefore appears that the Navy actions are in conflict with current Department of Defense policy as delineated in the Interim Rule.

In addition to the lateness of the community input into the reuse process, an inherent conflict of interest is evident in the continued and substantial influence and control that the Department of Defense has on the success and eventual outcome of the reuse process. This influence includes the approval authority for property conveyance applications made by other Federal Agencies and by State Agencies. With or without a community reuse plan, the Department of Defense has the ability to approve land transfer requests that essentially 'develop the community reuse plan' without the community at the table. The significant influence of the Department of Defense over the community reuse effort extends to planing funds. For instance, the initial funding made available to a community reuse effort is controlled by the Department of Defense's Office of Economic Adjustment (OEA); both the amount of funding made available to the community and the approval of the purpose. This initial funding is critical and should be flexible to allow the communities to respond to the crisis of closure. These funds also need to be targeted at more than infrastructure analysis and short term job development. Funding needs to be made

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available that looks to integrate regional resources into the reuse effort for the purpose of ensuring long-term success and job development. A fixation on expeditious job development may not realistically look at the development of a sustainable economy. As we are finding, though there are dollars available for "retraining of displaced defense workers" the problem of "retraining for what" continues to surface. It is this "for what" part of the equation that needs to be addressed as aggressively as the location and condition of the utility lines. At Fort Ord, the OEA would not, and has never, agreed to fund economic development planning funding as requested by the University of California. These funds were eventually provided by the Department of Commerce's Economic Development Administration (EDA). It took much effort and determination to have the funds made available for the University of California reuse effort. An ironic twist is that the economic assessment of the conceptual reuse plan at Fort Ord, prepared for the United States Army Corps of Engineers by an outside consultant, indicates that the University proposed reuse effort at Fort Ord will be one of the significant economic engines of the total base reuse; this, despite the initial lack of support from the Department of Defense.

The Department of Defense clearly has the ability through the award of planning funding and the Record of Decision process which determines ultimate conveyance and land uses, to dictate a reuse which is not consistent with the Redevelopment Authority's intended plans. Thus, the fair market value of the property may change substantially due to Department of Defense parcelization and Record of Decision reuse constraints. In negotiating the purchase of military installation property, the fair market value after reuse has been implemented, rather than the fair market value at the time of the sale, should be considered. This policy should be reflected in the Final Rule.

The Interim Rule as written established a regulatory framework which can be extremely inflexible. This became particularly apparent when we attempted to negotiate the calculation of net profit to comply with the profit sharing requirement in the Interim Rule. The Interim Rule states that certain Code of Federal Regulation citations will be used as guidance for allowable costs in the calculation of net profits. In our negotiations this section was interpreted by the Army to mean that the CFR citations as indicated in the Interim Rule provided the only methodology under which net profit could be calculated. During the negotiating process it became clear to both the Universities and the Army that these CFR's were inappropriate because they were intended to deal with Federal product and service contracts, not economic development.

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Although the Army stated that they agreed in principle, they were not willing to independently negotiate a reasonable allowable cost structure. Instead they contended that the Interim Rule provided no flexibility for the Army to make independent judgements, even if the CFR's clearly were not relevant. The decision to negotiate a reasonable allowable cost structure therefore had to be made at the highest levels of the Department of Defense. The Final Rule should give the Military Service Secretaries the flexibility to override the rule when certain decisions clearly make sense. The property conveyance, and economic redevelopment process should not be delayed due to a long drawn - out Department of Defense concurrence process.

It became apparent during our conveyance negotiations that communities will find themselves at a serious disadvantage when negotiating with the Department of Defense. The way the Interim Rule has been written each branch of the military can impose their own interpretation and perspective on the process. This split in the management of the process creates confusion and does not facilitate the learning experiences of one Service to be incorporated into the next. In addition, the ability of the Department of Defense to control and direct the planning funds from OEA, creates an inherent conflict of interest when one realizes that to be successful in the property conveyance negotiations one needs information, and that the information needed will only be obtained if funded by the OEA. Finally, the negotiations to convey property at Fort Ord to the two universities were a greatly protracted and frustrating process. The University of California brought to the table real estate and environmental attorneys, real estate professionals, and a professional base closure consultant. Even so, we spent long hours working through the detail of the conveyances. Many times it was clearly evident that the Department of the Army was not negotiating in the interest of successful redevelopment, but rather as they interpreted the Interim Rule to ensure equitable and maximum profit sharing; and to continue past Department of Defense Installation closure policies. It should be clear that in accordance with the President's Five Point Plan the most important mutual goals are a successful defense conversion and economic redevelopment.

The President's Five Point Plan emphasizes economic redevelopment as the cornerstone of successful defense conversion. The Administration has continually stated that public/private partnerships are an important and necessary component of successful defense conversion and economic development. The private sector due to the requirement to make sound business decisions in order to stay in business, has a much different perspective than government. Private sector participation is essential for redevelopment to occur as the Federal government doesn't have the

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financial resources to adequately fund every project. The entities which will ultimately determine private sector commitment in terms of participation and investment must be brought into the process early. No one currently participating in the front end of the installation redevelopment process has this perspective. Yet, Federal defense conversion funding; and Interim Rule property conveyance procedures provide the framework to implement defense conversion only on a "Government to Government" basis. For economic redevelopment to occur during the defense conversion process, entities other than state and local governments must be able to be directly involved in the process. This means that university systems, and in particular the private sector, should be eligible for Federal planning grants and installation property conveyance under the Pryor Amendment. The underlying issue is providing the resources necessary to develop and sustain the redevelopment effort and funding a mechanism to bring the people into the process early who will ultimately make the large long-term investments.

In addition to these overarching comments, I submit, with my testimony and for the record, a copy of the formal written comments of Ms. Lora Lee Martin of the University of California at Santa Cruz. Ms. Martin's letter provides a more detailed discussion of many of the specific issues of the Interim Rule that we discovered to be problematic in our negotiations for property conveyance at Fort Ord. We jointly hope that my testimony, her comments, and the experiences shared with the Department of the Army during the weeks of negotiations bring to this process experience and perspective that will help to shape a more effective Final Rule.

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FORT ORD PROJECT
Multi-Institutional Center for
Science, Technology, Education, and Policy

SANTA CRUZ, CALIFORNIA 95064

August 4, 1994

Mr. Joshua Gottbaum
Assistant Secretary of Defense for
Economic Security
3D814, The Pentagon
Washington, DC 20301

RE: Comments on the Interim Rule - Implementing Title - XXIX of the
National Defense Authorization Act for FY '94 - "The Pryor Amendment"

Dear Mr. Gottbaum:

This letter provides comment on the above referenced Interim Rule. I submit these comments in my role as Director of Program and Policy for the University of California's (UC) Fort Ord Project, a base reuse effort led by the University of California's Santa Cruz campus, and as the person responsible for leading the UC team during the Fort Ord property conveyance negotiations. The following opinions and statements reflect many hours of personal and institutional commitment and participation in the first job-centered property disposal action undertaken using the above referenced Interim Rule. Though the comments put forth in this letter are mine from the perspective of the University of California, Santa Cruz, the experiences that helped to shape these comments were jointly shared with the California State University system through mutual and parallel conveyance negotiations. This letter is intended to reinforce comments received by your office from both the Fort Ord Reuse Authority (FORA) and from Congressman Farr as well as to expand on issues that, in our experience, are particularly difficult to implement. These comments also include input from our technical consultant Mr. Rodman D. Grimm and are reflected in his written testimony submitted for the public hearing on this Interim Rule to be held on August 5, 1994.

In addition to these brief written comments, I hope that your office will take advantage of the hundreds of man hours that were committed to our conveyance negotiations during the months of June and July. For nearly six weeks in both California and in Washington, DC we worked with teams of real estate professionals and lawyers, both civilian and military, to hammer through the first conveyances by the Department of the Army and the Department of Defense under the Pryor Amendment. At one time we had nearly twenty professionals sequestered away for most of a day working on what, in retrospect, is a relatively straightforward Deed and Memorandum of Agreement. We feel that much of these prolonged negotiations resulted from unclear guidance by the Interim Rule, and apparently conflicting priorities

and goals of the law and the Department of Defense, and, in some cases, inappropriately determined citations in the Rule. We urge you to use our negotiation experience as a guide for modification of the Interim Rule and for subsequent implementation actions.

The comments in this letter will be broken into three sections. First, a policy overview section will provide a summary of the apparent policy conflicts. Second, a specific discussion of some of the sections of the Interim Rule that requires either clearer language or content modification to make the Rule consistent with the law and the President's Plan. Finally, a concluding section to reemphasize the issues determined to be most critical.

POLICY OVERVIEW

The following sections reflect general policy observations and concerns. Each section includes a recommendation for action.

1) Economic Redevelopment v.s. Revenue Production

The most frustrating aspect of the Interim Rule of the Pryor Amendment has been the seemingly inconsistent message it sends with regard to a focus on community reuse and economic redevelopment vs. revenue production for the Department of Defense. Specifically, though the President's Five Point Plan and Public Law 103-160 set the framework for the former, the Interim Rule clearly sets in motion the latter. This revenue incentive, as found for instance in the Interim Rule guidelines for profit sharing, when combined with existing legislation which mandates that revenue be generated from the disposal of Department of Defense property and deposited into the Base Closure Account, puts the members of the Military Service in a conflicting position. Are they to work towards assisting the communities with the best and most expeditious reuse? Or are they to negotiate the terms of the conveyance in a manner that ensures the greatest return to the Department of Defense? If job-centered property disposal is truly the goal, then the Final Rule must direct the appropriate military service to proceed in a manner that works best for the communities.

Recommendation: The intent of the law and the President's Five Point Plan need to be reflected more clearly and strongly in the Implementing Rule. If the purpose of the Law is to truly facilitate economic redevelopment then this priority needs to be stated with clear guidance.

2) Disposal Process v.s. Community Reuse Priorities

The property disposal process responds to requests for property rather than the desired community reuse plan providing guidance for disposal. If the community reuse needs and desires are of paramount concern then they should be the economic redevelopment driver. The Base Closure Community Assistance process, as outlined in the Interim Rule, does not include reference to 'community statement of interest' or 'local redevelopment plans' until after

land has been screened and surplus to the federal government, the Homeless providers, and other public benefit conveyances (i.e. state agencies). Job-centered property disposal appears in the "process summary" as the last option. If the Pryor Amendment method of conveyance was developed in response to the demands and needs of communities across the country how does job-centered property disposal end up as a "last resort" tool? Shouldn't this method of conveyance be made available to the communities at the beginning of the process if it helps to increase the likelihood of the reuse success? Shown on the "process flowchart" in the Interim Rule is the particularly distressing indication that if the land has a "high value" the Department of Defense, sans a successful community appeal, can sell that land without ANY community input if a "valid offer is received". Who determines what a valid offer is? This issue was magnified in the case of the Fort Ord property transfers through early statements by Department of the Army officials as to their estimates of the value of the land, and their intent to sell that land. These comments were subject to questioning as to their basis and effectively served as a barrier to open discussions and interactions throughout the process.

Recommendation: Property conveyance under the "Pryor Amendment" should be made available at or near the beginning of the disposal process. Every effort should be made to integrate Military Service disposal decisions with the community reuse planning process.

3) Who is in charge?

In addition to the lateness of the community input into the reuse property disposal process, an inherent conflict of interest is evident in the continued and substantial influence and control that the Department of Defense has on the success and eventual outcome of the reuse process. This influence includes the approval authority for property conveyance applications made by other Federal Agencies and by State Agencies. With or without a community reuse plan, the Department of Defense has the ability to approve land transfer requests that essentially 'develop the community reuse plan' without community involvement. The significant influence of the Department of Defense over the community reuse effort extends to planning funds. For instance, the initial funding made available to a community reuse effort is controlled by the Department of Defense's Office of Economic Adjustment (OEA); both the amount of funding made available to the community and the approval of the purpose. This initial funding is critical and should be flexible to allow the communities to respond to the crisis of closure. These funds also need to be targeted at more than infrastructure analysis and short term job development. Funding needs to be made available to integrate regional resources into the reuse effort for the purpose of ensuring long-term success and job development. A fixation on expeditious job development may not realistically look at the development of a sustainable economy. As we are finding, though there are dollars available for "retraining of displaced defense workers" the concept of "retraining for what" continues to surface. It is this "for what" part of the equation that needs to be addressed as aggressively as the location and condition of the utility lines. At Fort Ord, the OEA would not agree to fund economic development planning funding as requested by the University of California. These funds were eventually

provided by the Department of Commerce's Office of Economic Development Administration (EDA). It took much effort and determination to have the funds made available for UC's reuse effort. An ironic twist is that the economic assessment of the conceptual reuse plan at Fort Ord, prepared for the United States Army Corps of Engineers by an outside consultant, indicates that the UC proposed reuse effort at Fort Ord will be one of the significant economic engines of the total base reuse; this, despite the initial lack of support from the Department of Defense.

Recommendation: There needs to be increased flexibility in the disposal and reuse process to facilitate successful economic development. The Rule should include language that directs the Military Service to expand approval of funding options and to provide for the most effective and efficient property disposal process.

4) Balanced Negotiations

It became apparent during our conveyance negotiations that communities will find themselves at a serious disadvantage when negotiating with the Department of Defense. The way the Interim Rule has been written each branch of the military can impose its own interpretation and perspective on the process. This split in the management of the process creates confusion and does not facilitate the learning experiences of one Service to be incorporated into the next. In addition, the ability of the Department of Defense to control and direct the planning funds from OEA, creates an inherent conflict of interest when one realizes that to be successful in the property conveyance negotiations one needs information and that the information needed will only be obtained if funded by the OEA. Finally, the negotiations to convey property at Fort Ord to the two universities was a greatly protracted and frustrating process. The University of California and the California State University teams included real estate and environmental attorneys, real estate professionals, and a professional base closure consultant. Even so, we spent long hours working through the detail of the conveyances. Many times it was evident that the Department of the Army was not necessarily negotiating in the interest of successful redevelopment, but rather as they interpreted the Interim Rule to ensure equitable and maximum profit sharing. At one point in the negotiations it was indicated that if the Army gave into one of our specific requests, the University would "win." "Win what?", we asked, thoroughly confused. Didn't we all support the President's initiative? And wasn't it clear that successful redevelopment was the mutual goal? Clearly not.

Recommendation: Our strong recommendation is that in all negotiations between reuse representatives and the Department of Defense, the community or reuse entity be supported by a knowledgeable professional who is well versed in the tradition and potential motivations of the Department of Defense with regard to property conveyances. The negotiating playing field needs to be leveled and without a professional well versed in the issues of conveyance, the community or reuse entity is at a serious disadvantage. We urge this funding be made available from OEA or other similar sources.

INTERIM RULE DISCUSSION

In the case of the property conveyances at Fort Ord to the University of California, the following areas were of particular concern during the protracted conveyance negotiations:

1) Discretion in the Choice of Conveyance Mechanisms

The interim rule, Part 90.4 Policy, (a)(1)(i), states "The use of existing public benefit conveyances should be considered, where appropriate, before the use of a public benefit conveyance for economic development." It is not clear why this statement is so prominently placed in these rules and who should do the "considering." In the case of the University of California's conveyance request, it was determined early on, in part due to economic/budget realities and in part due to the desire to develop public/private partnerships, that a traditional public benefit conveyance was not appropriate or acceptable. Despite this determination, our efforts to use the Pryor Amendment method of conveyance were met with much resistance because of our status as an educational institution. It was clearly stated several times that the "preference" of DoD personnel was that we use a traditional public benefit conveyance method.

Recommendation: Delete reference to the "preference" of using existing public benefit conveyances thereby providing flexibility to rely on the community/user driven perspective on the most appropriate conveyance mechanism to stimulate economic reuse.

2) Definition of a Redevelopment Authority

In the Interim Rule, Part 91.3 Definitions item (g), 'redevelopment authority' is defined as "...as any entity, including an entity established by a State or local government, recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation and for directing implementation of the plan." This language is confusing; it indicates that a redevelopment authority is 'an entity established' thereby implying that it could be any number of entities so established. In the case of Fort Ord, for purposes of property conveyances, there exist three 'redevelopment authorities'. In addition to the Fort Ord Reuse Authority (FORA) each university system (UC and CSU) was named a redevelopment authority for purposes of expediting property conveyance under the Pryor Amendment and to reflect the universities experience and status in the state. The reality is that at least one base, Fort Ord, there are multiple 'redevelopment authorities' for the purpose of conveyance.

Recommendation: Provide the Secretary of Defense with the clear authority to recognize the appropriate 'redevelopment authority or authorities.' In addition, edit the language in the Interim Rule to clearly state, "one or more" redevelopment authorities as so recognized by the Secretary of Defense.

3) Applicability of the Rule to 1988 and 1991 closures

Though there are several places in the Interim Rule language where it is stated that "The provisions of this section may not be appropriate for some of the 1988 and 1991 base closures and realignments, because these bases are so far along in the property disposal process..." the mechanisms for implementing this recognition are not clearly stated. Additionally, if one supports the assumption that each base reuse is unique it is possible that what might be considered exceptions in fact might just be a reflection of uniqueness.

Recommendation: Provide clear discretion and more clear guidance to the appropriate Department of Defense Secretary to exempt 1988 and 1991 closures from portions of the Pryor Amendment as needed and appropriate to be consistent with the law.

4) McKinney Act Screening

The Interim Rule attempts to establish a mechanism for the early identification of homeless assistance requirements for land and buildings at closing bases. The intent is to permit communities to develop reuse plans that fully accommodate homeless needs, while permitting early identification of the remaining properties for either quick sales for job creation, federally sponsored public benefit conveyances or conveyances to a local redevelopment authority for economic development purposes. As written, once a McKinney Act screening is complete, if no homeless provider is interested in and qualifies for the property, and if the local redevelopment authority submits a written expression of interest for the property within one year, the property will not undergo any subsequent homeless screenings. In practice this may work for some military installations which were designated for closure in the 1993 round of base closures; and those which will be designated for closure in subsequent rounds. However, a critical problem exists for military installations designated for closure in 1988 and 1991. If a military installation in one of those rounds has gone through the screening process and property conveyance has been scheduled under transfer mechanisms existing prior to the passage of Public Law 103-160, Section 2903, this Interim Rule requirement creates a problem if the local redevelopment authority determines that this newly provided conveyance mechanism is preferable for economic development purposes. A question has been raised concerning whether the property has to undergo an additional McKinney Act screening in order to use Section 2903 as the conveyance mechanism. In practice this is an unrealistic requirement as 1) the property has already been screened under the McKinney Act and no qualifying homeless organizations have expressed an interest, and 2) in all likelihood the intended property use has not changed and the only difference will be conveyance at no cost and without restrictions to foster more rapid economic redevelopment. If an additional McKinney Act screening is required, the redevelopment authority will either have to 1) forego property transfers under 2903, 2) run the risk that new qualifying homeless organizations express interest in and obtain the desired property thereby requiring a 'rethinking' of the developing community reuse plan, or 3) postpone redevelopment implementation until the McKinney Act screening is accomplished; the delay and process potentially having significant impact on the job creation and economic development efforts already underway.

Recommendation: Change the Interim Rule, and the law if necessary, to assure that the additional McKinney Act screenings will not be required if redevelopment authorities of installations designated for closure in 1988 and 1991 desire to change their method of conveyance to a Section 2903 conveyance.

5) The "Market Test" and Fair Market Value

Before offering property at closed bases for job-centered property disposal, the military is instructed in the Interim Rule to determine the fair market value of the land and then seek, through advertisement, expressions of interest from the marketplace for this land. If the military receives good faith and reasonable expressions for interest, and if the military department "decides that an expression of interest received demonstrates the existence of a ready market, the prospect of job creation, and offers consistent with the range of estimated fair market value, it may decide to offer the property for sale.The potential offerers will be encouraged to work with the redevelopment authority so that their development goals will be compatible with the local redevelopment plan. This process is subjective and essentially designates the military department as the community reuse 'driver'. While the communities are developing a reuse plan, the sale of property can potentially redirect that plan or be found in conflict.

Recommendation: The process of determining the fair market value should reflect and be supportive of the reuse plan developed by the communities. Any sales of property should be through the redevelopment authority, not the military department.

6) Profit Sharing

This section covers one of the more time consuming and difficult issues during our conveyance negotiations. The concept of recoupment and net profits, at first glance, seems to be straightforward. However, as this issue was explored extensively during the conveyance negotiations, it became apparent that there were many problems and unanswered questions in the directions provided by this section of the Interim Rule (Section 91.7 Procedures, (f) (2)). For instance, the determination of what is "net profit" is unclear, and in our opinion, inappropriately tied to CFR's more appropriate to procurement transactions than that of economic development. The language of this section contains sufficient ambiguity that we had it interpreted several different ways by the Army and the universities during the negotiations. In addition to clarity with regard to allowability and allocability of costs, there is need to clarify in the Rule the extent of the profit sharing reach. It is our understanding that the profit sharing relationship extends solely to the redevelopment authority in receipt of the initial conveyance from the Government. To pass this relationship on to subsequent owners or lessees would limit or preclude successful economic development of the properties. In our negotiations the extent of this profit sharing relationship was of central concern and, only after many hours, was this provision removed from the covenants section of the Deed. The Rule needs to clearly state that the profit sharing relationship is not intended to 'travel with the land' to subsequent transactions.

• Required Deed Provisions (Section 91.7 Procedures, (f)(4) (iii-v)) In Section 91.7 Procedures, (f) (4) it is seemingly clearly stated that the "...GSA at 41 CFR 101-47.4908 shall be used as a model deed provision to implement this recoupment policy, recognizing that the GSA provision will require tailoring for each parcel." This section goes on then to "require" several changes and additions. The following sections are particularly problematic:

(iii) Straw Transactions

This deed provision is designed to ensure that the receiver of lands (the grantee) does not enter into relationships intended to circumvent the Government's recovery of its net share of profits. In theory this is supportable, but the examples provided (sales or leases to cooperating parties at nominal prices and transactions at other than arm's length) do not provide enough guidance in the case of economic development efforts. For instance, it is entirely possible that the only way a company may enter into a long-term lease on a closed base is if that company has a long history of programmatic relationship with the new owner of that property (i.e. a university) and if the prospective lessee receives X years of nominal or free rent. To fire up the economic engine of a region this company's presence may be critical and desirable on many fronts. It is also likely that similar economic incentives are being offered in other competing regions or states. Should such incentives be considered potential straw transactions? We think not.

Recommendation: The straw transaction language in the Rule should indicate that, for the purposes of economic development, economic incentives such as sales or leases at nominal prices are expected. The Rule should rely on the definition of Straw Transactions as transactions entered into for the purposes of circumventing the Government's recovery of its net share of profits; "intent" would be integral to this understanding.

(iv) Calculations of net profit - Inappropriate CFR's

The Interim Rule states: "(iv) In calculating the amount of any net profit from a sale or lease, the local redevelopment authority may include: (A) Capital costs, as provided in 41 CFR 101-47.4908 (b), (B) Direct and indirect costs related to the particular property and transaction that are otherwise allowable under 48 CFR part 31 including the allocable costs of operation of the local redevelopment authority with regard to that property." This section of the Interim Rule is not clearly presented; the words "may include" were interpreted in inconsistent ways. In our negotiations this section was interpreted by the military department to mean that the CFR citations indicated were the sole binding guidance while the universities believed that the Rule provided for the CFR's to be used for guidance but not constraints. This is particularly important given the fact that the CFR's so cited, in our opinion, are inappropriate for the calculation of net profits. 41 CFR 101-47.4908 (b) deals with allowable capital costs which are delineated in four categories of costs which can be included. This CFR citation is not overly restrictive, but does not include as allowable many of the costs which would need to be included to make a realistic net profit

calculation for an economic development project. On the other hand, 48 CFR Part 31 is not relevant to economic development projects, nor even to real estate transactions. Rather, its intended purpose is to delineate costs which are not allowable for Federal product and services contracts. This CFR specifically disallows many of the costs, such as marketing and advertising, that will be critical for a successful economic development effort. In addition to the inappropriate and inadequate guidance provided for allowability and allocability of costs, other accounting issues for appropriate calculation of net profits need to be determined. For instance, over what accounting cycle (e.g. 1 year, 3 years, 5 years or 15 years) will costs be spread and how is the "project" defined for purposes of determining net profit (e.g. a building or the entire conveyed parcel)?

Recommendation: Neither 48 CFR Part 31 nor 41 CFR 101-47.4908 (b) apply to an economic development effort. They should, therefore, not be used as the basis for delineating allocable and allocable cost for the calculation of net profits. The Department of Defense, in consultation with redevelopment authorities, universities, economic development entities and professionals, and real estate developers should start over and develop more realistic and supportive accounting criteria guidelines with the goal of supporting the economic redevelopment objectives of the President's Five Point Plan.

(v) Notification of sales or leases

As required in the Interim Rule, there is a requirement of "notification to the disposing Military Department of sales or leases." The notice of sales or leases are to be accompanied by an accounting or financial analysis indicating the net profit, if any, from a sale, or the estimated annual profit from a lease. This requirement, combined with the 'straw transaction' provision discussed above led to some interesting questions during our negotiations for property at Fort Ord. Is this notification intended to provide the Government with an opportunity to intervene (as intimated in the straw transaction section of the Interim Rule) in transactions? If so, if a redevelopment authority spends years cultivating a potential business relationship, is it in anyone's best economic interest to provide notification for the possible purpose of stopping the transaction? We thought not, and sought to develop a reporting/notification relationship that was 1) after the transaction, 2) for the purposes of profit sharing calculation only, and 3) provided for subsequent recoupment, with the redevelopment authority being responsible, of any net profits not accurately determined or shared. Additionally, in our negotiations it became distressingly clear that this notification and profit sharing process will require significant time and effort on the parts of both the redevelopment authority and the Department of Defense. We found ourselves wondering, in a time of downsizing, how realistic this was and if the return was worth the investment.

Recommendation: Clarify the intent and procedure for notification. We recommend that notification not be done as each

transaction is brought to closure but rather on a quarterly, yearly or longer basis, but in any case, clearly 1) after the transaction is completed, 2) for the purposes of profit sharing calculation only, not intervention, and 3) allowing for subsequent recoupment, with the redevelopment authority being responsible, of any net profits not accurately determined or shared.

7) Appraisals

The profit sharing relationship between the receiver of property and the Federal Government is established for 15 years unless the appraised/fair market value of the land is recouped by the Government through the profit sharing process in less time. This "post conveyance sale", unless fairly established to encourage economic development through appropriate accounting methods and reporting guidelines, has the very real potential of limiting the economic development for which it is intended. Because the appraised value of the land provides an important revenue sharing guideline, it must truly reflect the intended uses and constraints of the property in question. The Interim Rule provides for this appraisal to be done by the Military Departments, in consultation with the redevelopment authority. In our experience however, this appraisal process was done independently of our involvement, both in determining guiding assumptions and validating factual information i.e. amount of acreage in specific uses or categories of value. Additionally at Fort Ord, the properties being conveyed to the universities are being conveyed without water allocation rights. This separation of resources reflects the University's commitment to a regionally controlled and integrated utility system. However, with out water, it does call into question the assumptions made in the determination of the appraised value.

Recommendation: Appraisals should be done with the full cooperation of the redevelopment authority, including joint determination of appropriate assumptions and parameters. Appraisals should be provided to the redevelopment authorities for properties conveyed under Section 2903 (this was not the case in our conveyance experience). In the case of disagreement over the appraised value or methodology, a second and, perhaps, even a third appraisal should be obtained by the Military Department to facilitate any resolution of discrepancies in value.

CONCLUSION:

The President's Five Point Plan and the Pryor Amendment need to be commended for the opportunity they bring to the communities hard hit by base closure. The new tools being developed through these two efforts, combined with the efforts of the Department of Defense and many others will be critical to the eventual success of reuse efforts across the country. As a nation we are clearly just learning how to 'rewrite' our regional economies in the face of military downsizing. The importance of acknowledging that this is truly a learning experience can not be underestimated. With this recognition comes the inherent need to develop tools and procedures that are flexible and evolving. Through the negotiation experiences of the University of


California, in partnership with the California State University system, we found that the Interim Rule did not, as written, provide sufficient flexibility for the issues we confronted during the conveyance process. The above comments are an attempt to provide some clarity to the areas of the Interim Rule that did not work well.

In addition, there were several other areas of concern during our negotiations that deserve brief mention here. They included: 1) Should infrastructure, that is acknowledged to be a liability in many cases, be transferred with parcels or singularly and intact to a basewide redevelopment authority?; 2) How should the environmental responsibilities of the negotiating parties be clearly stated and, for instance, should indemnification be provided in the case of unexploded ordnance accidents?; and 3) What access to environmental information regarding the installation should be made available to the redevelopment authorities, ie an ordnance report and recommendations developed for the Military Department?

Despite the hundreds of often frustrating hours put into the negotiating process for the property conveyances at Fort Ord, the effort on all fronts should be commended. We, the Department of Defense, the communities and others, are jointly developing a process that will be used for many years. The success of this national effort will depend upon our ability to develop common, non-conflicting goals of reuse. If our national goal is job development and economic redevelopment then let us develop the tools that reflect that position and that will allow us to be successful. And, whatever the process and tools we develop, they must be written to provide flexibility. As we uncover new challenges, the Department of Defense and the communities need to have the flexibility to accommodate the best solution within the rules provided.

In closing, I transmit my sincere thank you to the Department of the Army who, under the leadership of the Assistant Secretary Robert M. Walker (Installations, Logistics, and Environment), spent endless time and effort working with us towards the first successful conveyances under this Interim Rule.

Respectfully submitted,


Lora Lee Martin
Director,
Program and Policy Development
UC - Fort Ord Project

cc: Congressman Sam Farr
Congressman Ron Dellums
William Lowery, Consultant
Assemblywoman Barbara Lee
Director James Gill, UC - Fort Ord Project
Defense Conversion Council, State of California
Director Beth Buchlmann
Consultant Rodman Grimm
Assistant Secretary Robert M. Walker

1 MR. BAYER: Thank you, Mr. Grimm.
2 Mr. Rubin.
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1 STATEMENT OF ALAN RUBIN, PRESIDENT, DEFCOM CORPORATION

2 MR. RUBIN: Good morning and thank you.

3 I would like to make a correction. I am no longer the
4 Vice President of the Beacon Council. I am President of a
5 company called DefCom Corporation. But I did serve in a
6 capacity as the Executive Director for Homestead Air Force
7 Base, and I would like to thank Deputy Assistant Secretary
8 Bayer and all the people who helped us from Secretary Perry on
9 down. We had a very successful reuse plan. It is to this
10 that I want to speak.

11 As in the last panel, it is very, very important that
12 the reuse plan that the community designs speaks to more than
13 just what they want to be when they grow up. They absolutely
14 have to have it in phases. Phase 1 of that reuse plan could
15 be the plan in which you design what it is you think the
16 community wants. Phase 2, which we call the strategy plan, is
17 the implementation plan, which is a lengthy document. We had
18 Arthur Andersen consultants helping us. We had over 120 input
19 organizations, from the Black Alliance to the Hispanic
20 Migrants Group. We had Secretary Cisneros' help through Otis
21 Pitts. That implementation plan then takes it to the next
22 level.

23 Then you have a third phase, which is called your
24 marketing plan, in which you are talking about build-out,
25 absorption rates, schedules, potential clients, tenants, all

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1 the things you need to do as a developer. You need, as you go
2 through this, to involve the local municipalities. It is
3 impossible to build these bases without zoning.

4 Just like CDC's take property from local counties and
5 local developments and turn them into building opportunities,
6 you do it the same way you do that. CDC's have been doing
7 this now for 40 years. They take property, local property,
8 either under condemnable rights or whatever other facilities
9 that you have, and you move through the process. But it is a
10 hand-in-hand process and they go together.

11 The second thing I want to say is that there is a
12 process by which you are running parallel. It's called the
13 caretaker process. It is a very lengthy process that we
14 engaged in. It's \$3 million a year to run Homestead Air Force
15 Base, just to keep it up.

16 You know, we were very lucky. We have no buildings
17 because they were all blown down. And you still need \$3
18 million to run that facility.

19 So there is a time when you are running parallel with
20 the Department of Defense, and that is a very eye-opening time
21 for the community. That is a very realistic time, when people
22 are talking about give us the golf course, and it's \$27,000 a
23 month to run that golf course in a public benefit conveyance.
24 There is a whole series of opportunities where you have to do
25 that.

1 So the critical issues come down to the ability for the
2 community to design that reuse plan that makes sense, so you
3 can take the properties, so a developer would take it.

4 There is another problem, though, that I would like to
5 address, which is called interim leasing. Here we have a
6 situation where we were unable to engage, one, because of
7 indemnification, but, two, because we did not know. No one
8 wants to take a lease for 30 days that can be destroyed at the
9 end of 30 days. Go talk to a company about building. We are
10 talking to Fed Ex. We are talking to the right people. The
11 question becomes how do you begin to do interim leases. And
12 you can't.

13 So you have to look at parcelizations. You have to look
14 at the ability to write those leases. You have to look at how
15 legitimately you are going to redevelop that property as a
16 developer.

17 Now there are ways to do that and we can suggest ways to
18 do that. And the community is prepared, in that partnership;
19 to do that. But it is all focused around that three-phased
20 re-use plan which you will have input to and which you will
21 have the ability to comment on as it is being designed.

22 Now the Office of Economic Adjustment has been
23 exceptionally helpful in all their abilities to do that and so
24 has the service. I must congratulate Pat McCullough and all
25 the people who are designing around it. I disagree. I don't

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1 think it is in a ROD process. I think the ROD process is
2 complicated enough.

3 I think it needs to be outside the scope of the ROD
4 process in terms of all the things that we were talking about
5 in the previous panel discussion. But they all must be there
6 to make sure that we are able to do that.

7 There is one other issue I want to address. Obviously,
8 I am a strong proponent of a community based plan that makes
9 sense, that needs to be based on business principles, not only
10 by elected officials. But the McKinney Act plays a very
11 important role in how you are going to dispose of the
12 property.

13 I want to tell you that we, in Dade County, had a very
14 successful McKinney Act transference. There were all kinds of
15 people who thought about that. But there were six
16 opportunities for the "Federal Register" to open, and the
17 services came down and did not help us in that process because
18 of the way the law was written. This needs to be streamlined.

19 HHS and HUD need to get their act together. You cannot
20 keep opening the McKinney time for people to do that through
21 interim rules, and they need to be addressed.

22 We got from 3,500 acres a 78 acre parcel that is being
23 used by a local community to build out what will be one of the
24 most successful McKinney Act homeless care providing that is
25 going on in the United States. In fact, we had Cisneros come

1 down and give us a check for \$15 million because of our
2 county-wide success.

3 So those reasons I think are critically important and I
4 thank you. I thank everyone for giving us the time to speak.

5 [The prepared statement of Mr. Rubin follows:]
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TESTIMONY OF
ALAN RUBIN

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may read

It is an honor to be part of this panel, and to have the opportunity to address Deputy Assistant Secretary Bayer, the distinguished members of the panel and all of the members of the Department of Defense's committee.

I appreciate the opportunity to be here today to discuss the issues faced by all of us regarding the interim rules for base closure. I am not here today to admonish or criticize the rules as they are already set forth. The Department of Defense (through its hearings) has already received enough criticism. Instead, I would like to comment on some of the ways to help facilitate or improve the status of these rulings so that communities can achieve success.

The key for the successful transition deals with the ability of the community to develop an economic strategy and structure that works. We need to look at these bases from a business perspective and not solely from the social services point of view---or simply replacing military units from other government agencies.

While I was the Executive Director for the Homestead Air Force Base Reuse and Economic Development Committee, we embraced two philosophies. The local reuse authority should have broad-based economic development expertise---and although you must have public officials for validity, the business community must forge the principal ideas for conversion and reuse. In addition, the local redevelopment authority must be able to demonstrate that it has the capacity to carry out the plan once it is pronounced and defined.

For every case in which the Department of Defense needs to evaluate this plan, the local authority must be able to justify the successful conversion and it must present to the Department of Defense the capacity with which to perform this conversion. The community must be able to show on a spread sheet economic streams, build-out absorption rates, build-out schedules and potential clients or tenants for this absorption.



The plan must look at--and be able to justify in a simple business sense--what would be the best solution for the community. While I was running our reuse plan, the economic diversification was done by Arthur Andersen as consultant, in conjunction with the Metro-Dade County Master Plan for the area through the year 2010---this type of projected emphasis must be present in order for the base reuse and conversion plan to be successful.

There are several other successful methodologies that may be employed by communities to ensure successful conversions. They have been pronounced in NAID documents and I will repeat them because they serve as a stalwart for success.

1. The advantage of base reuse opportunities to support existing government programs---the TRP program and others make for a very successful conversion.
2. Promote base reuse opportunities with new government programs.

and

3. Improve the public/private partnerships for base reuse--an example of this is the recent Department of Commerce's RFP for minority incubators to be instituted at closed bases. I am presently working on one of these programs for four base reuse areas and they make a lot of sense.

Other issues that I would like to touch on at this point deal with Real Property and McKinney Act screening. If the communities engage the McKinney Act early on they can facilitate and avoid costly and difficult situations. Additionally, the screening process can be streamlined at the federal level if there is communication between HHS, HUD, and DoD regarding this matter. The community can be exposed to five or six federal register opportunities and, unfortunately, this causes havoc at the local level.



There is a great deal more to say about McKinney but I will conclude by reiterating the fact that in Dade County--we were successful in securing a community-wide solution because we informed the community in the very early stages that we would have to address the homeless issue and it would have to be our solution--not one from an organization outside the community.

Economic Defense Conversion and profit sharing is a very sophisticated methodology for disposal. The NEC has designed criteria for this process but it is tied to what I had mentioned previously--the success of an economically sound reuse plan.

Therefore, if a community is attempting an economic conveyance--the need for specific business enterprises and specific clients to facilitate that plan must be identified early on. It is my belief that the key to any of these conversions is having the plan adhere to a strong business grounding.

We had a very successful reuse plan and we appreciate all of the help and the guidance given to us by everyone here today---as well as the foresight and vision of the Secretary of Defense..who had a hands-on mentality when it came to base conversion and specifically, Homestead.

I am involved nationwide with the problems and opportunities for communities facing base closure and we have been selected to work with Cecil Field. We are looking forward to continuing our work with many other communities in this realm.

I thank you for your time and taking the opportunity of speaking with communities as we go through this process together.

I look forward to the future with a great deal of hope and I know that together---we can make base conversion an economic success story in the United States.

1 MR. BAYER: Thank you very much.
2 Mr. Madway, tell us about San Francisco.
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1 STATEMENT OF DAVID MADWAY, GENERAL COUNSEL, CITY OF SAN
2 FRANCISCO REDEVELOPMENT AGENCY

3 MR. MADWAY: Thank you, Mr. Secretary.

4 As you noted, San Francisco, a city of 750,000 people,
5 finds itself with three bases to figure out what to do with.
6 Only one of those bases, however, Treasure Island, is subject
7 to the BRAC process. I should, however, note that another
8 facility, Hunter's Point, about 550 dry land acres, is a
9 national priority list site, a Super Fund site, and that, too,
10 presents us with a whole panoply of special problems.

11 I want to focus, however, on Treasure Island, which is a
12 base subject to the BRAC process, and on two particular issues
13 related to Treasure.

14 I should say, just to give you a sense of how the city
15 views the Navy's view of Treasure Island, the city has the
16 sense that the Navy views Treasure Island as the equivalent of
17 Park Place and that we are going to play Monopoly here.

18 VOICE FROM THE AUDIENCE: We can't hear you.

19 MR. BAYER: Why don't you try the other microphone.

20 MR. MADWAY: Let me repeat that.

21 MR. BAYER: Please do.

22 MR. MADWAY: The city has apprehensions that the Navy
23 views Treasure Island as Park Place and that what we are going
24 to do here is play Monopoly. I want to direct my comments
25 toward these concerns because they are our most immediate

1 concerns.

2 Two provisions of the proposed rule or of the Interim
3 Rule are of concern to us. The first provision is the
4 procedure for quick sales on the private market for high value
5 property. We think that Treasure Island would be considered
6 for this type of disposition. It is our strong belief that we
7 will not be able to realize new jobs for this type of disposal
8 process.

9 Any sale of high value pieces of property on the base
10 will result in a sort of Swiss cheese effect. We will end up
11 with some properties sold off and others not sold off. We
12 will have a great deal of difficulty coming up with a
13 coordinated development scheme.

14 It is imperative that the property disposal process be
15 part of a comprehensive, local reuse program that not only
16 looks at the valuable segments of the base but at an
17 economically viable plan for the entire property and that that
18 plan be fully vetted through the community, be subject to a
19 complete environmental process, and be ready to go before any
20 sales effort of any kind is undertaken.

21 The second related provision has to do with the
22 advertising of so-called readily marketable properties. The
23 Interim Final Rule provides a six month period for advertising
24 such property for sale to the private sector.

25 We believe that this process will hinder the efforts of

1 the community which is engaged in the base reuse process.

2 For example, sales would take place before the community
3 has updated its master plan and planning code to establish
4 uses, heights, development densities, before it has completed
5 an environmental review process mandated by, in our case, a
6 very elaborate environmental review statute, and before
7 transportation planning can take place -- a particular problem
8 with Treasure Island, which is served by a bridge which is at
9 about 140 percent of capacity right now, anyway.

10 In the case of Treasure Island, sales could conceivably
11 take place or at least efforts could be made to market before
12 very difficult and complex problems related to the impact of
13 the Tidelands Trust on that property could even be resolved.
14 The Tidelands Trust could limit very sharply the array of uses
15 to which that property could be put.

16 The end result could only be sales at what end up being
17 distressed prices to speculators, who are simply prepared to
18 shoot craps. The small amount of revenue generated for the
19 Federal fist by such sales cannot possibly justify the harm
20 done to local communities by disposition practices of this
21 character.

22 If DOD intends seriously to address the President's
23 mandate to foster job-centered economic development, it must
24 immediately abandon dangerous notions, such as priority, high
25 value sales and readily marketable properties. By marketing

1 the property up front, the department removes the ability of
2 local communities to engage in an orderly transition and reuse
3 process.

4 What we would hope to encourage is the establishment on
5 a locality by locality basis of a series of advisory
6 committees which would work carefully with your disposition
7 personnel. In our case, of course, it would be Western
8 Division Naval Facilities Command on, essentially, almost a
9 day by day process, so they are able to monitor our progress
10 toward a reuse plan, able to sit with us through that planning
11 process. I must say that Naval Facilities Command in Western
12 Division has been very good at that. But we are now
13 approaching the point, probably sometime in the early part of
14 next year, where this offering process is going to kick in.
15 The city regards that as threatening, impossible to work with,
16 and of no benefit either to the city or to the Department of
17 Defense.

18 Thank you.

19 MR. BAYER: Thank you very much.

20 Ms. Gillen, welcome.

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1 STATEMENT OF TERRY GILLEN, DIRECTOR, PHILADELPHIA OFFICE
2 OF DEFENSE CONVERSION

3 MS. GILLEN: Thank you.

4 Thank you for allowing me to present testimony today.

5 I would like to tell a story about a defense facility in
6 Philadelphia. It is not the Navy Yard, which tends to get the
7 most publicity, but an Army facility, a defense personnel
8 support center in South Philadelphia.

9 But orders of the 1993 Base Closure Commission, the DPSC
10 facility, which employs 1,800 workers, is being relocated to
11 another site in Philadelphia. The Defense Clothing Factory,
12 which is the only clothing manufacturer in the military and is
13 located at the DPSC site, was also ordered closed. That
14 closure will result in another 1,200 loss of jobs and the
15 relocation of DPSC will create a vacant facility in South
16 Philadelphia, where we already have a vacant naval hospital
17 site and a naval base site which will be available next year.

18 This is a good news/bad news story. The good news is
19 that we have had some early success with our effort to reuse
20 the DPSC site. The apparel industry took a nosedive in
21 Philadelphia over the last 20 years. But we have some cause
22 for optimism. We have begun negotiations with a Philadelphia
23 clothing manufacturer who is looking to consolidate their
24 operations in one site. They are interested in leasing the
25 DPSC site for the right price, and those negotiations are

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1 underway.

2 Another cause for optimism has been that the Department
3 of the Army has been a real partner in our effort. They have
4 responded to our request to move quickly and they have worked
5 with us to develop a lease which includes reasonable rent,
6 termination, and other provisions that a business person would
7 need.

8 They are working with us to try to put those 1,200
9 employees back to work.

10 The bad news in this story, and you may have guessed the
11 punch line already, is the Pryor regulations. With the
12 issuance of the Pryor regulations, the movement in this
13 process by the Army has slowed considerably. I would say that
14 it has come to a complete halt, except that the Army continues
15 to make a good faith effort to be responsive to us. But,
16 frankly, they are stuck on the so-called rapid job creation
17 provisions of the Pryor regulations.

18 The issue is, apparently, whether they have to stop the
19 screening process and stop the lease negotiations so that they
20 can advertise this property on the market. They are actually
21 trying to figure out whether to take a building in a dying
22 industry in a part of the city that has been pummeled by
23 defense closures, a building, which I might add, has a giant
24 oil plume underneath the foundation as a result of a leak in a
25 nearby oil refinery, which will probably prevent it from ever

1 being transferred in fee, they are trying to figure out
2 whether to take this building, call it "high value," and
3 advertise its availability in the marketplace.

4 Let me save you some time. We have already advertised
5 this building. We ran ads in the national apparel
6 publications, like "Women's Wear Daily." We hired an apparel
7 consultant to advise us about companies that might be
8 interested in this facility. We got exactly one response, the
9 company that we are talking to.

10 We will consider ourselves very lucky if we can lease
11 this building to that company for \$1 a year. So much for high
12 value.

13 One problem with the so-called rapid job creation
14 provisions is that it is based on the assumption that most
15 defense facilities have positive value in the marketplace and
16 that it is the responsibility of DOD to preserve that value
17 for the taxpayers.

18 As my story shows, that assumption is ridiculous.

19 But the biggest problem with this provision of the Pryor
20 regulations is that it offers no guidance to military services
21 about what types of facilities are to be considered under this
22 requirement. If the DPSC site can be even remotely considered
23 high value by people in DOD, then something is very wrong. I
24 would again request that you eliminate this entire so-called
25 rapid job creation advertisement requirement from the base

1 closure regulations.

2 I would be pleased to answer any questions about this.

3 Thank you.

4 MR. BAYER: Thank you very much.

5 I guess maybe I will lead off with a question, and I
6 would direct it toward Mr. Madway. You focused your comments
7 on Treasure Island, but I was thinking back to the very first
8 testimony that we had from Mr. Wagner about Long Beach and his
9 issue, if you recall, was regionalization.

10 Now they've got a particular problem there because the
11 closing site is on the very edge of a jurisdiction that has
12 zoning authority. But I would wonder from your point of view,
13 you spoke to Treasure Island and I realize that only some of
14 the DOD facilities that are closing in the Bay Area are within
15 San Francisco. But could you comment on the issue of regional
16 integration and planning, the notion of migration of jobs
17 versus generation of new jobs and how you see that in what
18 seems to me to be a very complex, but a very relevant,
19 example.

20 MR. MADWAY: Well, Treasure Island presents particular
21 problems for job generation because of its transportation
22 difficulties. By the same token, the city is conscious of the
23 fact that it exists in a region of 4 million or 5 million
24 people with, gosh, at this point, almost a half dozen bases
25 being closed. Treasure Island is completely within the City

1 and County of San Francisco. But the closure of Vallejo, the
2 closure of the Alameda Naval Aid Station, as well as Hunter's
3 Point, all have a terrific impact on the Bay Region as a
4 whole.

5 In fact, our comments to the department were in large
6 measure comments submitted on behalf of three of the cities in
7 the Bay Area that are affected by these base closures.

8 So there is a growing sense of the regional impact of
9 this move and a growing desire to resolve the problems
10 collectively.

11 The best example of that, of course, is the problem
12 presented for all of these communities by the limitations
13 imposed on use by the Tidelands Trust, an issue that is going
14 to have to be addressed collectively. We are going to have to
15 deal with this issue together or these bases will never be
16 productive in any meaningful sense.

17 So there is a strong sense of regional implications and
18 a growing desire to treat those issues collectively.

19 MR. BAYER: And do you feel that you have a mechanism to
20 do that?

21 MR. MADWAY: I don't think there is a formal mechanism
22 in place at this point. But, clearly, we need to move toward
23 that. Certainly, the common concerns raised by the proposed
24 Interim Rule have managed to provoke us into working together.
25 So a purpose has clearly been served.

1 MR. BAYER: That is the natural disaster syndrome.

2 I only have one other question, and it is for Mr. Rubin.
3 You talked a little bit about the McKinney Act. I know that
4 the Miami plan, the homestead plan, has dealt with that quite
5 creatively. But I wasn't sure, from your comments, if you
6 felt that the changes in the McKinney procedures that are
7 embodied in last year's authorization bill and in these
8 interim regulations, moved far enough, worked for you, or in
9 fact, were counterproductive.

10 MR. RUBIN: I think they need to be addressed further.
11 They're getting there. The problem that we experienced with
12 McKinney was specifically on a number of fronts. Number one,
13 the amount of times that the land appeared in the Federal
14 Register due to the regulations. It appeared six times -- six
15 different times. Additionally, the services were required to
16 come out and inform the community once again, outside the
17 scope of those six Federal Register opportunities, and that
18 was legislated. I mean, they had to come do that.

19 So we had a resolution to a problem, we had the
20 community-based solution, we had done a lot of work to get in
21 front of that, and here, the services were coming down, albeit
22 under the specific rules, to come down and inform the
23 community again of this scenario. All that tended to do was
24 give additional opportunities for folks to question the
25 validity of what was already a very volatile, volatile, hotly

1 contested issue.

2 Now, we had to do a study, and I suggest other
3 communities do this, to find out how many homeless folks we
4 really had. Now, we had a nationwide person come down and do
5 that. We also used HSI, out of New York and we used a lot of
6 other folks to come down and to validate the amount of
7 homeless, and then we had a compromise decision to put up a
8 home for 300 single men and 200 families, which worked for the
9 community.

10 But my concern about McKinney is that the laws, as I see
11 it, don't prevent the multiple listings. But I got informed
12 yesterday very nicely at an ^{NAID} ~~side~~ meeting that it's being
13 looked at now and some of the rules may apply. I'm just
14 hoping that they get to the point where there is none of this
15 overlapping of the set of scenarios. And I was involved in
16 the situation in Fort Sheridan where it was a major issue,
17 just a major issue, and the people were alarmed there, and in
18 other communities.

19 I just want to make sure that there's a clear-cut answer
20 out of the rules that define when the periods are open, when
21 they aren't open, if they're not going to be on the Federal
22 Register how one goes about doing that, because it's a very,
23 very, very tough issue and it comes up at the end.

24 We addressed it very early on, and you were at some of
25 those meetings with the community, where we had to go through

1 basic, well, what do you mean we can't change the law? And we
2 had to go through 7th grade stuff. You remember how a law is
3 passed, the three branches of Government, seriously, with
4 those because they were just unwilling to hear that we could
5 not reformulate McKinney.

6 So I'm pleased, and I believe that, from what I
7 understand, it will work. I just want to make sure, and I'm
8 imploring everybody to make sure that those go forward. It's
9 a hotly contested issue. I'm sure it's being contested on the
10 Hill right now, I'm sure.

11 CAPTAIN DURGIN: I have a question. I have a question
12 that is a little bit more philosophical, but it goes to what
13 Mr. Grimm, I believe, was talking about when he cited three
14 generations of CFR's that had to be addressed in the
15 negotiations. Some very well-meaning people, I believe, are
16 attempting to follow those rules and regulations,
17 notwithstanding the ^{Prior}~~prior~~ rules, and I guess philosophically
18 perhaps Mr. Grimm or other members here could give some input
19 as to whether you think there is a sense in Congress, or in
20 the Nation in general, to simply exempt all of those rules in
21 order to allow a more succinct, concise process that would
22 allow some of the things to occur that we have heard,
23 unfettered by the Federal Property Act, the GSA regulations,
24 various CFR's, the various things that folks in the Government
25 are required by law to follow.

1 MR. GRIMM: Well, I would like to give a two-part answer
2 to your question. The first thing is that the central problem
3 here is a problem that I think in a way was created by
4 Congress, because as Congressman Farr said in his testimony,
5 you have a situation where you have the President's five-
6 point plan and we are supposed to create jobs, and that means
7 in some cases giving the property away at no cost. But on the
8 other hand, there is still a revenue requirement and a base
9 closure account.

10 What we have found is that if you take the President's
11 speeches and the law -- but then when you get down to the
12 Pentagon, the Pentagon has a real problem because they've got
13 a balance sheet to work with, and somebody has to address that
14 so that there isn't pressure on the services to sell and to
15 get money back. I mean, if you are going to have a jobs
16 program, you should treat it as a jobs program. I think that
17 there is some sense in the Congress about that.

18 When you get to those specific CFR's, somebody said,
19 well, you've got to have a guideline that defines allocable
20 costs. But what happened was there wasn't a CFR in existence
21 that really applied, so somebody reached for one so you'd have
22 something to work with, and it's just unworkable. And that's
23 why I think somebody should start from scratch and write a new
24 CFR if you have to. Because what's out there just doesn't
25 apply.

1 We spent a lot of time looking at EDA regulations and
2 some others, and didn't really find anything that was a
3 suitable substitute.

4 MR. MANUEL: Mr. Grimm, you talked about a change in the
5 interim rule to add Government to private. Can you expand on
6 that now, on what you had in mind?

7 MR. GRIMM: Well, there has been a lot of talk in the
8 Congress and in this administration about public/private
9 partnerships. But what you find is that when you come down to
10 trying to put one together, the rules and regulations do not
11 permit it. I mean, I will give you an example. At the
12 University of California, through the efforts of Congressman
13 Farr and Dr. Perry, we got a whole bunch of people to talk
14 about structuring a partnership between the Army and the
15 national laboratories and the university to create
16 environmental technology research and technology transfer.

17 At the end, somebody from the Army, very well meaning
18 and really trying to keep people from not getting hurt, as the
19 captain has pointed out, with all these rules and regulations,
20 said, well, we need all this but we just don't have the
21 framework for it. And we said, what do you mean? And they
22 said, well, for instance, based on the procurement
23 regulations, none of you here could bid on this project if it
24 came to fruition because you would have advanced procurement
25 knowledge.

1 What you find is that, the way the CFR is written, it's
2 really written as a Government to Government -- in other
3 words, it's intended to go to the local redevelopment
4 authority, which by its nature would be a government
5 authority. And then the local redevelopment authority has to
6 compete everything. And if they compete everything, that's a
7 disincentive for an investment banking firm to try to come in
8 early on and work through the process. And I think there has
9 to be some way that you have to loosen those regulations so
10 you can bring the private sector in early. And it's just not
11 written that way.

12 MR. MANUEL: Thank you.

13 MR. HERTZFELD: I have a question. My question is to
14 Ms. Gillen. You had discussed the DPSC site for the clothing
15 factory, that you have a potential tenant there, that you're
16 interested or they're interested in leasing it for \$1. I was
17 wondering if you could fill us in on the discussion in the
18 private real estate community right now that has a lot of
19 industrial space available right now and might view the
20 ability to sell one site for a dollar a lease as being unfair
21 competition with those current landowners, and is there any
22 reaction from that of viewing that there's unfair competition
23 for that prospect.

24 MS. GILLEN: No, there really isn't. We cast a fairly
25 wide net in the community, not only to local but nationally,

1 to get a sense of what interest there was for this facility.
2 It is a very particular facility for a particular purpose, so
3 interest was very limited. And as I said, this is in industry
4 which is on a national down-swing. So no, we were not
5 overwhelmed with real estate people who wanted to rent
6 clothing factories. It just wasn't the case.

7 I understand the point that you are getting at, but
8 again, we have found that the real estate community is fairly
9 underwhelmed by the prospect of this facility being on the
10 market and the Navy Yard being on the market. It just isn't
11 there.

12 MR. HERTZFELD: My question is directed sort of at the
13 opposite direction, and that is the impact of having a lot of
14 property be available and put on the marketplace at
15 potentially no rent, and what impact that has on the private
16 real estate market, and is that a concern?

17 MS. GILLEN: Oh, yes. That is a concern, not so much
18 for the DPSC facility which is relatively small, about 80
19 acres, and in Philadelphia that is pretty small, but the
20 recent concern about the Navy Yard properties going onto the
21 market, you know, all at once for not too much money, and
22 PIDC, which, as you know, is our economic development agency
23 and which has a land bank of most of our industrial
24 properties, is very concerned about what that would do to the
25 price of industrial land city-wide. So that is another

1 reason.

2 As a number of witnesses have said, this has got to be a
3 long-term project, and that is one of the reasons you cannot
4 put all of this property onto the marketplace at one time.
5 Yes, you are right, it would wreak havoc on prices.

6 MR. RUBIN: If I may make one comment on that, we were
7 recently selected for the reuse of Cecil Field, which is 32
8 square miles, and that is a definite issue about, you know, if
9 you turn that into an airport facility and you have a brand
10 new facility called Jacksonville Airport which is not that far
11 from it, what do you do to that environment somewhere down the
12 road? So yes, those are definite issues that have to be
13 addressed.

14 MR. BAYER: I would like to conclude this panel, unless
15 there are any burning questions. Congressman Tucker has been
16 patiently waiting to testify, and I would like to move on to
17 that, and then we are going to take a break.

18 MR. MADWAY: May I just ask that at some point somebody
19 address what I understand are pending proposals on both the
20 House and Senate sides on McKinney and revising the procedures
21 for McKinney?

22 MR. BAYER: I think they are still very much in a state
23 of flux. The House has passed an amendment to the HUD
24 reauthorization bill, so that is a matter of public record.
25 But beyond that, the Senate hasn't acted and this conference

1 hasn't started yet. But I would be happy to chat with you
2 afterwards.

3 MS. GILLEN: May I make one more comment? I will be
4 fast. But it does get to Mr. Hertzfeld's focus on real estate
5 and to the previous panel's, I think, suggestion that all of
6 this be viewed as pretty much as a real estate operation. I
7 do think that there is a flavor of that in the prior
8 regulations, but that that simply misses the point. I think
9 there is a little bit of an obsession with real estate, real
10 estate values, land values, and not enough of a concern with
11 community planning and community issues as a whole. I would
12 be happy to elaborate on that at some point.

13 MR. GRIMM: And I will give you a strong second on that.

14 MS. GILLEN: I really do disagree with the previous
15 panel, which suggested a little bit more than I would suggest
16 that that focus is appropriate. I don't think it is.

17 MR. BAYER: Thank you, very much.

18 Congressman Tucker, we welcome you.
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1 STATEMENT OF HON. WALTER TUCKER, U.S. REPRESENTATIVE
2 FROM CALIFORNIA

3 MR. TUCKER: Good morning. First of all, let me say,
4 Mr. Secretary, that I certainly appreciate your consideration
5 in helping me to get in, and out so that I can get back to the
6 Hill for votes.

7 Mr. Secretary and members of the panel, good morning. I
8 applaud you for this very important administrative hearing,
9 and I would like to at this time take an opportunity to share
10 some of our reflections and concerns that I have as they
11 relate to my district and some matter of base closure in the
12 Long Beach area.

13 In 1991, the Base Closure Commission voted to close the
14 Long Beach Naval Station, the Long Beach Naval Housing
15 Facility, and the Long Beach Naval Hospital. The City of Long
16 Beach, which has been the Navy's partner for over 70 years,
17 welcomes the opportunity to team with the Navy once again to
18 execute what may now be the Navy's lead defense conversion
19 undertaking. After 3 years of negotiations, the Long Beach
20 Naval Housing property in my congressional district was
21 recently transferred to the city. I thank the Department for
22 that accomplishment.

23 However, Mr. Secretary, permanent commercial easement
24 through hospital site parcel A has not been granted, and was
25 specifically promised last December by the Navy Acting Deputy

1 Assistant Secretary. This easement is critical to city
2 commercial use of hospital site parcel B.

3 The city made available the entire hospital site to the
4 Navy many years ago. Parcel B has now been reverted to the
5 city when the hospital was vacated earlier this year, but
6 unfortunately remains out of reach to the city for productive
7 economic use. Resulting economic losses to the city have now
8 occurred, and I can cite some of these with Home Depot and
9 other major companies that have wanted to get into that site.
10 Because of the lack of easement we are unable to do so, and
11 more are soon to follow, unfortunately, if the Navy continues
12 to withhold an easement on parcel A, as indicated.

13 While regional concerns must be addressed, the City of
14 Long Beach is the local governmental jurisdiction that has
15 carried the Navy load for over 70 years. Unreasonable
16 regional demands and misuse of the defense conversion
17 procedure must not be allowed to further undermine Naval
18 hospital conversion to implement the city's master plan. That
19 was agreed to by the Navy in November of 1992.

20 Mr. Secretary and members of the panel, the intent of
21 Congress is at stake here, and, Mr. Secretary, as you well
22 know from your long-standing and distinguished career up on
23 the Hill, I believe that the intent of Congress is the
24 important thing here. I would therefore ask your personal
25 intervention, as I have that of the Secretary of the Navy -- I

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1 have spoken with him directly on this matter -- to stop the
2 delay and to stop the bleeding, if you will, in my district
3 and in Long Beach.

4 Secondly, Mr. Secretary, the Base Closure and
5 Realignment Commission, the Secretary of the Navy, and the
6 Secretary of Defense, the President, and the Congress all
7 recognize that the waterfront Naval Station property is
8 strategic to implement timely defense conversion at the Port
9 of Long Beach. The port has asked me to urge, and I do urge
10 therefore, that the Department move to include in the Final
11 Rule sufficient guidance so that section 2927 of the 1994
12 Defense Authorization Act will be addressed to enable the
13 public purpose transfer of any and all Naval Station
14 waterfront property to the port.

15 We believe that this is extremely important, because we
16 believe that the port needs, so to speak, a first right of
17 refusal as it relates to public purpose property. The port
18 also urges the Department to expand section 91.78 in the
19 Proposed Rule to satisfy the McKinney Act provisions as they
20 apply to the very unique situation at the Port of Long Beach.
21 What is so meritorious here, Mr. Secretary, is that the
22 water's edge Long Beach Naval Station property is the only
23 viable means by which Long Beach can expand what is the number
24 one U.S. seaport.

25 We appreciate the needs of the McKinney Act and the

1 importance of the concern for the homeless, but this situation
2 in Long Beach speaks of a need for expansion, a need for
3 flexibility for the kind of unique situations that we see down
4 in Long Beach. Mr. Secretary, I ask the question of you and
5 the panel: How much longer must completion of defense
6 conversion at Long Beach be delayed? We are ready to go, we
7 have been ready to go, and we want to carry out the original
8 intent of this panel and the intent of Congress to convert.

9 I strongly recommend that this rulemaking and your
10 personal intervention be executed to ensure the conversion at
11 Long Beach proceeds without further delay or further
12 distraction. The bottom line, Mr. Secretary, is that the
13 reuse plan that we have converts 1000 Naval jobs into 10,000
14 civilian jobs, and in my business, and I am sure in your
15 business, jobs is a very, very important bottom line.

16 I appreciate the opportunity to come here this morning
17 to speak before you, and will look forward to continuing to
18 work with you and this panel, and indeed your boss, to further
19 the intent of Congress and the intent of Naval conversion.

20 [The prepared statement of Mr. Tucker follows:]
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August 5, 1994

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may read
Lay in #1

Before

The Department of Defense

Deputy Asst. Secretary of Defense for
Economic Reinvestment and
Base Realignment and Closure Hearing

Testimony on

Title XXIX of the
National Defense Authorization Act
for FY1994

Concerning Regulatory Impact
on the
Long Beach Naval Station Properties Defense Conversion

Base Closure and Realignment Commission
Closure Action July 1991

Presented by

Honorable Walter Tucker, Member of Congress
On Behalf of the
City and Port of Long Beach, California

**MR. SECRETARY AND MEMBERS OF THE
PANEL,**

**IN 1991 THE BASE CLOSURE COMMISSION
VOTED TO CLOSE THE LONG BEACH NAVAL
STATION, THE LONG BEACH NAVAL
HOUSING FACILITY AND THE LONG BEACH
NAVAL HOSPITAL. THE CITY OF LONG BEACH,
WHICH HAS BEEN THE NAVY'S PARTNER FOR
OVER 70 YEARS, WELCOMES THE
OPPORTUNITY TO TEAM WITH THE NAVY
ONCE AGAIN TO EXECUTE WHAT MAY NOW
BE THE NAVY'S LEAD DEFENSE CONVERSION
UNDERTAKING.**

**AFTER THREE YEARS OF NEGOTIATIONS
THE LONG BEACH NAVAL HOUSING
PROPERTY, IN MY CONGRESSIONAL DISTRICT,
WAS RECENTLY TRANSFERRED TO THE CITY. I
THANK THE DEPARTMENT FOR THAT
ACCOMPLISHMENT.**

HOWEVER, MR. SECRETARY, A PERMANENT COMMERCIAL EASEMENT THROUGH HOSPITAL SITE PARCEL "A" HAS NOT BEEN GRANTED AS WAS SPECIFICALLY PROMISED LAST DECEMBER BY THE NAVY ACTING DEPUTY ASSISTANT SECRETARY. THIS EASEMENT IS CRITICAL TO CITY COMMERCIAL USE OF HOSPITAL SITE PARCEL "B".

THE CITY MADE AVAILABLE THE ENTIRE HOSPITAL SITE TO THE NAVY MANY YEARS AGO. PARCEL "B" HAS NOW REVERTED TO THE CITY WHEN THE HOSPITAL WAS VACATED EARLIER THIS YEAR BUT UNFORTUNATELY REMAINS OUT OF REACH TO THE CITY FOR PRODUCTIVE ECONOMIC USE. RESULTING ECONOMIC LOSSES TO THE CITY HAVE NOW OCCURRED AND MORE ARE SOON TO FOLLOW IF THE NAVY CONTINUES TO WITHHOLD AN EASEMENT ON PARCEL "A".

WHILE REGIONAL CONCERNS MUST BE ADDRESSED, THE CITY OF LONG BEACH IS THE LOCAL GOVERNMENTAL JURISDICTION THAT HAS CARRIED THE NAVY LOAD FOR OVER 70 YEARS. UNREASONABLE REGIONAL DEMANDS AND MISUSE OF THE DEFENSE CONVERSION PROCEDURE MUST NOT BE ALLOWED TO FURTHER SABOTAGE NAVAL HOSPITAL CONVERSION TO IMPLEMENT THE CITY MASTER PLAN THAT WAS AGREED TO BY THE NAVY IN NOVEMBER 1992.

MR. SECRETARY, THE INTENT OF CONGRESS IS AT STAKE HERE AS YOU WELL KNOW FROM YOUR DISTINGUISHED CAREER IN THE SENATE. I WOULD THEREFORE ASK YOUR PERSONAL INTERVENTION AS I HAVE THAT OF THE SECRETARY OF THE NAVY AND THE DEPUTY ASSISTANT SECRETARY TO STOP THE DELAY AND THE DAMAGE AT LONG BEACH.

SECONDLY MR. SECRETARY, THE BASE CLOSURE AND REALIGNMENT COMMISSION, THE SECRETARY OF THE NAVY, THE SECRETARY OF DEFENSE, THE PRESIDENT AND THE CONGRESS ALL RECOGNIZE THAT THE WATER FRONT NAVAL STATION PROPERTY IS STRATEGIC TO IMPLEMENT TIMELY DEFENSE CONVERSION AT THE PORT LONG BEACH.

THE PORT THEREFORE URGES THE DEPARTMENT TO INCLUDE IN THE FINAL RULE SUFFICIENT GUIDANCE SO THAT SECTION 2927 OF THE 1994 DEFENSE REAUTHORIZATION ACT WILL BE ADDRESSED TO ENABLE THE PUBLIC PURPOSE TRANSFER OF ANY AND ALL NAVAL STATION WATER FRONT PROPERTY TO THE PORT.

THE PORT ALSO URGES THE DEPARTMENT TO EXPAND SEC. 91.7(8) IN THE PROPOSED RULE TO SATISFY MCKINNEY ACT PROVISIONS AS THEY APPLY TO THE UNIQUE SITUATION AT THE PORT. WHAT IS SO MERITORIOUS AND COMPELLING HERE, MR. SECRETARY, IS THAT THE WATERS EDGE LONG BEACH NAVAL STATION PROPERTY IS THE ONLY VIABLE MEANS BY WHICH LONG BEACH CAN EXPAND THIS NUMBER ONE U.S. SEAPORT.

MR. SECRETARY, HOW MUCH LONGER MUST COMPLETION OF DEFENSE CONVERSION AT LONG BEACH BE DELAYED?

I STRONGLY RECOMMEND THAT THIS RULEMAKING AND YOUR PERSONAL INTERVENTION BE EXECUTED TO ENSURE THAT CONVERSION AT LONG BEACH PROCEEDS WITHOUT FURTHER DISTRACTION OR DELAY.

I APPRECIATE THE OPPORTUNITY TO COME BEFORE YOU THIS MORNING.

1 MR. BAYER: Thank you very much. Mr. Roth, do you have
2 anything you would like to comment on? This seems to contain
3 Naval issues.

4 MR. ROTH: I guess the only comment I could make to you,
5 Mr. Congressman, is I think, as you well know, all the Long
6 Beach issues are a matter of direct concern and involvement of
7 our secretariat. I believe they might even have spoken to you
8 yesterday, at least a little bit, about this, and they are in
9 contact with the Port of Long Beach it seems like daily, and
10 the City of Long Beach on a very regular basis. We are trying
11 to do everything we can to move the process along, and it is
12 being handled, I believe, at the right level.

13 I appreciate everything you have said, and we are going
14 to try to work with you on it.

15 MR. TUCKER: I certainly appreciate that comment, and I
16 agree with you that the Department has been responsive. There
17 have been ongoing conversations and lines of communication
18 open. Obviously, you appreciate, as you indicated, my
19 somewhat high level of frustration to try to move things
20 forward. But I do recognize and appreciate the fact that
21 there has been some responsiveness in terms of communication,
22 and we appreciate that.

23 MR. BAYER: We have had some interesting dialog already
24 this morning, I think before you arrived, on two issues. One
25 is the regionalization issue which you referenced in your

1 comments. There has certainly been a problem with the
2 hospital site. And the other is the issue of new jobs versus
3 migration of jobs. I just wanted to assure you that those are
4 both issues that we feel we need to be careful with as we make
5 changes to these regulations. The problem that you have is
6 just a very good example of both of those issues.

7 MR. TUCKER: We certainly appreciate that. It is
8 comforting for me to know that you are aware of those
9 problems. That is the first step in solving the problem; that
10 is, understanding what the problem is. So the fact that you
11 are aware, that is a step in the right direction.

12 MR. BAYER: Thank you very much for being with us.

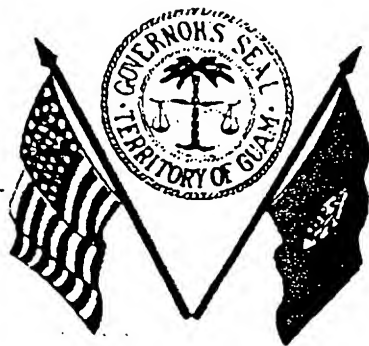
13 MR. TUCKER: Mr. Secretary, panelists, thank you very
14 much.

15 MR. BAYER: Let me simply say that we have a statement
16 here from the Governor of Guam, Joseph Ada, that we will be
17 putting into the record.

18 [The information referred to follows:]

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Layla #2

August 25, 1994

The Honorable Robert A. Underwood
Delegate, U.S. Congress
508 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Underwood:

I want to extend my thanks to you for your willingness to deliver testimony on behalf of Guam on the issue of the Pryor Amendment rules. I would greatly appreciate your inclusion of the following comments into the record at tomorrow's final hearing on the rules.

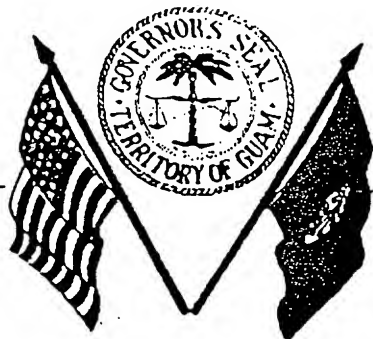
Your assistance in this regard is greatly appreciated.

I am, Sir,

Sincerely Yours,

JOSEPH F. ADA
Governor of Guam





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**Statement of the Governor of Guam
Final Hearing
on the
Department of Defense
Pryor Amendment Rules**

Hafa Adai.

Numerous comments on the Department of Defense's Pryor Amendment rules have been submitted by the Government of Guam over the past three months. However, recent activities of the Navy's Real Estate Office, Pacific Division, compel me to offer some final thoughts on the rules, particularly as they relate to the commercial sale of property.

First, the extension of the comment period on the Department of Defense's interim rules has created a snafu. Military commanders in the Pacific are going forward with preparation with plans for commercial sale notwithstanding the fact that the rules are still under review for finalization. The expanded comment period (which wisely extended given the opposition to many of the provisions of the rules), has now opened the window for the process of sale to begin. It had been hoped that cooler heads would have prevailed given the controversy of the rules, but this is apparently not the case. Therefore, I would urge the expeditious finalization of the rules to forestall any irreparable damage between the civilian and military community which may occur as a result of the present perceived need to implement the interim rule as is.

Although I believe that our position in Guam is clear, let me repeat that we oppose, in no uncertain terms, the commercial sale of property at NAS Agaña (Brewer Field). It is our view that all properties should be returned to Guam -- at no cost -- for our redevelopment and reuse, primarily for aviation related needs. The properties in question were taken from the people of Guam in wartime conditions and then condemned as soon as U.S. citizenship was extended in 1950. The full extent of historical injustices can not be addressed here, but suffice to say the sale of any of the properties at NAS Agaña would initiate a multiplier effect on the past injustices which would likely result in even deeper cuts in the relationship between Guam and the U.S. Government.



As we have stated in the past, it is our view that the interim rules do not implement the Pryor Amendment in a balanced manner. While it is true that the Department of Defense is vested with property disposal powers usually reserved for the General Services Agency, the Pryor Amendment also states that the federal government can best contribute to community redevelopment of a base make base properties available to the communities affected by the closure. This portion of the Pryor Amendment is essentially ignored in the interim rules which place commercial sale as a higher priority than community needs and reuse.

As has been manifest in many comments from communities across the country, local governments, not the federal government are in the best position to determine how these properties are to be reused. It is the local government, not the federal government who must deal with the effects of reemployment, lost revenue and opportunities for enhancing community well-being. In our case, the primary reuse desired for NAS Agaña is for aviation purposes. Not only will this allow for a smooth transition in reemployment and redevelopment, but the facilities which we propose to upgrade will provide the U.S. government with an accessible state-of-the-art aviation facility in the event of a regional defense requirement. No such guarantees could be made in the event of a commercial sale by the Navy.

I trust that in your finalization of the rules that you will see the wisdom of eliminating the priority for commercial sale.

In the event, however, that the rules do not recognize the primary community interest in redevelopment you can be assured that this government will exercise all legal avenues to assure that base closure properties in Guam are unattractive for commercial sale purposes. For many years in Guam our people have had economic development of their privately-held lands blocked by military "access" and ad hoc zoning requirements. We know well the ways in which what would otherwise be commercially valuable property can be made invaluable and we will demonstrate our knowledge of these instruments.

It is our sincere hope that your final deliberations will recognize that the communities affected by base closure are in the best possible position to plan and implement redevelopment programs.

August 5, 1994

1 MR. BAYER: Again, if there are others in the audience
2 who are not scheduled to speak who have statements that they
3 want to submit to the record, please do so.

4 We are going to take a 5-minute break and reconvene at
5 11:45.

6 (Recess.)

7 MR. BAYER: Let us reconvene the hearing. I would like
8 to reiterate that we had asked the witnesses to simply
9 summarize your comments. Anything that you want to put in the
10 record will be a part of the record. As this hearing has
11 progressed, it has become apparent that the dialog between the
12 panel -- that is, the two panels -- has really been the most
13 valuable opportunity that we have had, because we can have
14 your written comments but we cannot have that interaction
15 after the fact. So I would ask you to try to hold your
16 comments to a minimum and to just make the major points that
17 you have.

18 GROUP 3

19 MR. BAYER: Our third panel, we have done a bit of a
20 switch. Ms. Haidee Clark Stith, representing South Carolina,
21 the Coordinating Council for Economic Development, we welcome
22 you, and the Honorable Patricia Ticer, Mayor of Alexandria, my
23 former home, we welcome you, Mayor.

24 MAYOR TICER: I'm sorry it's former.

25 MR. BAYER: I think we have one of my Arlington folks

1 here today. We also have Mr. Jeff Simon, who is the director
2 of the Fort Devens Division of the Massachusetts Land Bank.
3 Jeff, it is good to see you again. We have Mr. Paul McCarthy,
4 Village Manager and Executive Director of the Glenview Naval
5 Air Station Community Reuse Planning Group. The Honorable
6 Anthony Intintoli, Mayor of the City of Vallejo, which is the
7 home of Mare Island Shipyard, we welcome you and are glad to
8 have you again. And I see, with you, you have Walter Graham,
9 your City Manager, and we welcome you, Mr. Graham.

10 Ms. Stith, why don't you begin?
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1 STATEMENT OF HAIDEE CLARK STITH, DIRECTOR, SOUTH
2 CAROLINA COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT

3 MS. STITH: Thank you, gentlemen.

4 The ultimate goal of base redevelopment should be bona
5 fide public benefit activities, which we believe are well
6 articulated in the language of the Pryor amendment and
7 President Clinton's five-point plan. The rate of return on a
8 closed military installation, though important, should not be
9 the one-shot real estate payment to the military. The
10 Proposed Rule appears to confuse economic development
11 priorities with the priority of achieving maximum return for
12 real estate. Please do not subvert the community's right to
13 self-determination.

14 A community's economic base is taken away when an
15 installation closes. It cannot afford the resources to
16 purchase real estate and support new development. Please do
17 not segregate out high-value property on installations. If
18 you average the high-value property against the remaining
19 property which may have negative or even truly negative value,
20 if you average those out together you may come up with a zero
21 value for all the property aggregate on a base.

22 An economic development conveyance should take into
23 account the jobs created and private-sector investments
24 necessary to create a tax base in the community. Similar
25 methods of evaluating bases for determining the value of

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1 economic development are used in many State economic
2 development incentives and other Federal assistance programs.
3 DOD does not need to establish a new role that determines
4 market value in marketing property, because it already has
5 one. Through its own subordinates, it influences the creation
6 of effective community redevelopment plans.

7 There are appropriate times in the whole closure and
8 redevelopment process for the military and DOD to identify
9 property for continued military or other Federal uses. There
10 are the EIS, the CERCLA, the ROD, and DOD writes and
11 influences all of these, and they chart the best course of
12 action for the communities to follow. Beyond the ROD,
13 implementation of the community redevelopment plan is
14 appropriately left to the community, and economic development
15 conveyances should occur after that document is issued by DOD.

16 Let the community's redevelopment plan dictate the
17 disposition of property. If the redevelopment plan recognizes
18 a potential benefit from economic development, then a
19 conveyance can be negotiated. The conveyance for economic
20 development should be structured to include properties that
21 are needed to successfully implement the plan for creating and
22 supporting activities. A split of profits with the DOD is a
23 given. How this is split depends on a community's individual
24 situation, not whether it is a rural community or not. But
25 what is appropriate and what DOD should receive is going to be

1 different in every situation.

2 Consider discounts in each individual case by using
3 initial value of the property and what community investments
4 will be applied against the costs. There should be a mutually
5 agreed-upon mechanism to establish the fair market value of
6 the property as it relates to a particular locale. An
7 essential element of this values consideration for functional
8 and economic obsolescence of the property. Discounts up to
9 100 percent from the agreed-upon fair market value would be
10 based upon the economic and functional obsolescences and also
11 the economic impact on the community as they are identified in
12 the community redevelopment plan.

13 Let real estate value become one of the development
14 incentives a public body can offer as inducement for
15 investment and job creation. The reuse of the property can be
16 accomplished with flexible close, depending on the kind of
17 job-creating commitments the community envisions.

18 Economic development is extremely competitive. Every
19 community in this Nation competes against every other
20 community. There simply are not enough new ventures to go
21 around. In essence, the supply of former military buildings
22 outweighs the demand, and those communities that are
23 successful in redevelopment will have been creative in their
24 packaging and marketing of these properties. Find a way to
25 let the community have economic development. If you have to

1 give them a base in order for jobs to be created, that may be
2 a good payoff for the Nation as a whole. Let the community
3 use its resources and tools to develop the property with its
4 own decisionmaking. If there is ultimately a profit in
5 successful economic redevelopment, DOD can share in that.

6 Let me make two quick comments. Please, just don't take
7 all of our comments today and go off and write new rules in a
8 vacuum. And please involve all of us in a process where we
9 can together write a broad-based economic conveyance
10 guideline. Your new rules should be as simple and flexible as
11 every other Federal public benefit conveyance that now exists.

12 Understand, too, that though many of our comments today
13 focus on only one section of the Proposed Interim Rule, that
14 is because you asked us to restrict voluntarily our oral
15 input. There are many other technical difficulties in the
16 rule, ranging from questions on the level of maintenance to
17 personal property disposal, and these must be revised, as
18 well, and we all stand ready to work together with you in an
19 open and public process to do that.

20 MR. BAYER: Thank you. That is a point that I think
21 should be in the record, that we have asked the witnesses to
22 focus their comments on one particular area rather than the
23 entire body of the regulations, so that we could have a dialog
24 around specific areas, and we appreciate your cooperation in
25 doing that.

1 Mayor Ticer?
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1 STATEMENT OF PATRICIA TICER, MAYOR, CITY OF ALEXANDRIA,
2 VIRGINIA

3 MAYOR TICER: Good morning. I am happy to be here.
4 Mine may not be as germane, but I was asked to participate and
5 I do think that it is important to the overall benefit not
6 only to DOD but to the individual communities, and that is
7 this community reuse plan, community master plan in zoning,
8 and the community benefit. Community welfare is really what
9 we're talking about, and we can all be winners. It's a win-
10 win situation if everybody starts up front talking together.

11 We had a very successful process with Cameron Station,
12 which is on the Western End of Alexandria. We learned in '88
13 that it was going to close and that those people were going to
14 go to Fort Belvoir. We set up a task force which included the
15 Army. It was very successful. We've written up a direct
16 reuse plan within 1 year. It is now that reuse plan, which is
17 a pattern for development for that site, 164 acres, has been
18 incorporated into our master plan and zoning code.

19 Down the road came the McKinney Act, which put a little
20 fly in all this wonderful ointment that we had set up for
21 ourselves. Our reuse plan had included 10 percent of the use
22 for affordable housing, and it included 1900 units of
23 residential, 400,000 square feet of commercial, of office
24 space, and about 8000 retail, and the Army had generously
25 donated 50 acres for open space. So for Alexandria, it was

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1 perfect. It fit into our ambiance. The problem with the
2 McKinney Act is that it did not include any community input,
3 and I want to get back to my comments here before I run on
4 more than my 5 minutes.

5 The Alexandria base closing process benefits come from
6 implementing the city reuse plan for Cameron Station put in
7 jeopardy by the McKinney Act. We received a reprieve last
8 night. We had one homeless provider who had requested use of
9 more than half of the built space there, 48 acres out of 164
10 right in the center of the property, which would have totally
11 negated any reuse. No developer would have been interested in
12 going in there. So we have learned unofficially yesterday
13 that HHS has turned down that application. It has not turned
14 down the application for the food bank, and we supported our
15 own Carpenter's Shelter applications. So there will be
16 homeless services there.

17 But I think it is very important that continuing work be
18 done, including the bills that are now in Congress, that be
19 supported by you because they are in total contradiction to
20 the intent of the Base Closure Act. If we were to give over
21 Cameron Station to use for the homeless, and Alexandria, which
22 is one of the smaller jurisdictions, became the mecca for
23 homeless services in the entire region, DOD would be
24 forfeiting about \$80 million to \$100 million. Alexandria
25 would be forfeiting about \$5 million annually in revenue in

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1 the long run, after the development has taken place. This
2 would make Cameron Station probably the most expensive
3 homeless shelter site in the country, if not to say in the
4 world.

5 I think if I were to say anything about your interim
6 rules it would be how very, very important -- and everyone has
7 mentioned it -- how very, very important the community is. We
8 share the risk. The community shares the risk. The community
9 must share the benefit. I am not sure that I think that the
10 long-term partnership with benefits coming back to the DOD
11 after 20 years if maybe two projects have failed and the
12 community and the city has been left holding the bag during
13 that time -- I think if indeed you are going to share in the
14 profits and within 20 years still share in the profits in 20
15 years, then you should be sharing in every bit of the cleanup,
16 environmental issue, the infrastructure issue, that is faced
17 as the communities are going to go along.

18 I am getting my marching orders from behind you, that is
19 why I'm rushing through this.

20 The Pryor Act tries to encourage cooperation and
21 outreach between the community and homeless providers -- I am
22 back on the homeless now -- to compel, but it does not compel
23 a homeless provider to negotiate with the community, and
24 continues to allow a provider to receive property. I am
25 hopeful that these bills that are going through will indeed go

1 through and they will fix that problem.

2 I do think that this still can be a very successful
3 process. You need the funding for your future activity. We
4 need it for the benefit of our communities. Economic
5 development is of utmost importance. But economic development
6 only gains its source from a healthy community, and if a
7 healthy community is attacked by inappropriate rules and
8 regulations that render economic development impossible, then
9 no one is a winner. And I hope that all communities will be
10 winners, as I am sure Alexandria will be.

11 Thank you for listening.

12 [The prepared statement of Mayor Ticer follows:]
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T6
Page #1

TESTIMONY FOR MAYOR
ON INTERIM FINAL RULE REGARDING
BASE CLOSURE COMMUNITIES

GSA HEADQUARTERS
18TH AND F STREET
9:30 AM -12:30 PM

Good morning Mr./Madame Chairman and panel members.

My name is Patricia Ticer and I am the Mayor of the City of Alexandria, Virginia. I appreciate the opportunity to speak to you about possible changes to the interim final rules under the Prior Amendment from the perspective of our experience at Cameron Station, located in the western portion of Alexandria and scheduled to be closed in 1995.

Cameron Station may be different from most of the bases under consideration for closing in that it is small, only 164 acres, and urban, located in a highly developed residential area. Therefore, what gets built on Cameron Station will have a large impact on our small city. Also, the land is potentially valuable; land for high density residential development in this area sells for as much as \$1 million an acre.

The City of Alexandria went through a five year careful planning process in close cooperation with the U.S. Army in developing a mixed use plan that represents the highest and best use of the

base. Our plan would result in a plan that would be compatible with the surrounding residential neighborhoods while at the same time would produce substantial revenues for the Army. The plan specifically provides that 10% of the housing will be affordable, with some of that to serve the homeless. The planning process we used in Alexandria is often cited as a model for the way the base closing process should proceed.

The City's reuse plan calls for 1,910 residential dwellings, up to 400,000 square feet of office and 80,000 square feet of retail, and 50 acres of needed open space. The plan would result in revenues of as much as \$80-100 million for the Army to help pay for new facilities they are building at Ft. Belvoir. The plan would place most of the facility back on the tax rolls to provide revenues to the City to help pay for health, housing and social services to a large needy population, in need of services, including the homeless. Alexandria currently does more to meet the needs of the poor and the homeless of any suburban jurisdiction in the Washington Metropolitan Region, and those services are costly.

The Alexandria base closing process, and the benefits that can come from implementing the City reuse plan for Cameron Station, has been put in jeopardy by the operation of the McKinney Act in a way that Congress probably probably never anticipated when it passed the law in 1987. Allowing one homeless provider to request more than half of the base would make the City's reuse plan infeasible. The City of Alexandria acknowledges the importance of providing facilities

to serve the homeless and supported the grant under the the McKinney Act of a 20,000 square foot building to Carpenter's Shelter, a local organization serving the homeless in Alexandria.

But the McKinney Act also allows the Abundant Life Christian Outreach Ministries to request 700,000 square feet of building space, more than half of the total floor space currently existing at Cameron Station. That request, if approved, would completely undermine the carefully developed balanced plan for Cameron Station. Not only would the proposal have the effect of concentrating the whole metropolitan region's services for the homeless in the City of Alexandria, but also the proposal would make the adopted reuse plan infeasible. I cannot imagine that any developer will be interested in locating a mixed use predominantly residential community in an area proposed to be surrounded on by homeless shelters, warehouses for the homeless and heavy trucks serving those facilities.

Not only will the City suffer from the impact of the Abundant Life proposal, but also the Army will stand to lose \$80-100 million of from the sale of the land which was to help the Army defray the cost of its relocation to Ft. Belvoir. Counting the revenues lost to the U.S. Government on sale of the base, the Abundant Life request under the McKinney Act proposal, if granted, would result in the costliest homeless facilities for the homeless in our nation's history.

We in Alexandria believe strongly that the City's reuse plan must be given careful consideration in any process which can make final decisions about Cameron Station. We proudly invite examination of the City's current efforts in serving the homeless. We asked HHS to consider those factors in making its decision on the award of buildings to homeless providers, but HHS told us that they are not allowed to do so under current legislation.

I believe that the McKinney Act screening process must be amended more radically and more fundamentally than that proposed under Pryor. Expediting the McKinney Act process is appropriate, but failure to require that Federal agencies with decision powers in this area consider a community's reuse plan and its Comprehensive Housing Assistance Strategy (the CHAS) is just plain wrong.

Pryor tries to encourage cooperation and outreach between a community and homeless providers but it does not compel a homeless provider to negotiate with a community and continues to allow a homeless provider to apply for and to receive property and/or leases from the Department of Health and Human Services without regard to local reuse plans and the City's Comprehensive Housing Assistance Strategy (CHAS).

I hope that you will give careful consideration to modifying your rules to produce a better and more balanced result.

Thank you.

1 MR. BAYER: Thank you very much, Mayor.
2 Mayor Intintoli?
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1 STATEMENT OF ANTHONY INTINTOLI, MAYOR, CITY OF VALLEJO,
2 CALIFORNIA

3 MAYOR INTINTOLI: I am here speaking on behalf of the
4 City of Vallejo, of course, but also indirectly for the region
5 because the region was represented in the planning process for
6 our regional reuse plan. I am proud to say that we have
7 completed the process of developing that plan in the time set
8 for ourselves, 1 year. It was adopted unanimously by a 52-
9 member reuse committee, and also by the city council in
10 Vallejo. Mare Island is located within Vallejo's
11 jurisdiction, but when we went out to do planning, and that
12 was mentioned earlier for a question you mentioned, certainly,
13 the region has to be looked at in their planning effort, and
14 they were in our reuse committee.

15 Generally, I want to say that we're very pleased with
16 the cooperation and the help that we've had in the economic
17 adjustment, in particular in the advice they gave us for the
18 reuse process. Also, I would like to say on behalf of all of
19 us that we are very grateful for the help we received from the
20 Navy, and we thank you for your participation in the process.

21 Here, I am sharing my time with our city manager, who
22 will address specific concerns, and we are joining with the
23 mayors of San Francisco, Alameda, and Oakland, in our
24 expressions of some concerns that deal specifically with a
25 couple of problems which I will just mention in a generic

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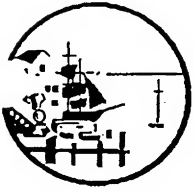
1 sense.

2 First of all, we don't think that, as established, the
3 rule will in fact promote an expeditious transfer of property.
4 It establishes what we consider to be a unilateral
5 decisionmaking process whereby the military department really
6 controls and the local community has little input. That has
7 been mentioned several times already.

8 Finally, the timelines established, particularly with
9 regard to personal property transfer and levels of maintenance
10 and repair, are not compatible with the local development plan
11 timelines and specific closure dates. The reason I felt it
12 important that I come to deliver the plan personally and also
13 offer my presence is because for our community, we are a
14 community which, in the BRAC '93 at least, had the largest
15 number of civilian employee jobs lost. We had 10,000 lost
16 since 1989 in a gradual takedown of civilian employment at
17 Maré Island, and now we are facing an additional 15,000 jobs
18 to be lost in the next couple of years, and an unemployment
19 which we expect to exceed 20 percent. And that does not
20 include the other bases in the area that have a similar
21 problem.

22 Now, Mr. Graham will address this.

23 [The prepared statement of Mayor Intintoli follows:]
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25



CITY OF VALLEJO

COMMUNITY DEVELOPMENT DEPARTMENT
MARE ISLAND CONVERSION DIVISION

T6

Hayes #2

July 29, 1994

Mayor Intintoli

Ms. Jennifer Nuber Atkin
Base Transition Office
U.S. Department of Defense
Washington, DC

Dear Ms. Atkin,

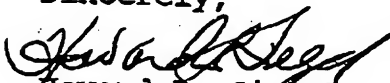
I am writing in response to the letter from Deputy Assistant Secretary Bayer to ~~Mayor Anthony Intintoli, Jr.~~, dated July 27th, requesting information regarding the August 5th hearing on Revitalizing Base Closure Communities and the Interim Final Rule.

The City of Vallejo, home of Mare Island Naval Shipyard, will be represented by Mayor Intintoli and City Manager Walter Graham. The three topics they will address are as follows:

1. Jobs-Centered Property Disposal
2. Economic Development Conveyances
3. Minimum Level of Maintenance and Repair

I have enclosed an advance copy of their comments for your review. If you have any questions, please call me at (707) 649-5453. Thank you for your assistance.

Sincerely,


Howard B. Siegel
Administrative Analyst

Enclosure

**PRESENTATION TO BRAC COMMISSION
REGARDING THE INTERIM FINAL RULE**

Mayor Intintoli

I am speaking on behalf of the City of Vallejo, California, the location of Mare Island Naval Shipyard, which has the highest level of civilian employment of all bases slated for closure. With the timing of the announced closure coinciding with a nationwide recession, which is particularly pronounced in California, the citizens of Vallejo are justifiably concerned.

The impacts of Mare Island's closure upon the local community will include the following:

- 10,000 direct jobs lost since 1989, primarily civilian;
- an additional 15,000 jobs estimated to be lost in the community as a result of the closure;
- over a \$500 million loss in local economic activity.
- an unemployment level expected to exceed 20%.

Please note that these impacts do not take into account the numerous other base closures slated for the San Francisco Bay Area.

Along with other base closure communities, Vallejo was optimistic when informed of President Clinton's Five-Part Program for base conversion, as presented in the summer of 1993. We have eagerly awaited its implementing language, in the form of the Interim Final Rule. However, when the Rule was released this spring, Vallejo, along with many of these other communities, was disappointed to find that the Rule did not accurately reflect the intent of the Plan. The major reasons for this reaction are:

- a) The Rule does not facilitate "expeditious transfer" of property, as indicated in the President's Five-Part Plan.
- b) It establishes a unilateral decision-making process, whereby the Military Department has control and the local community has little input.
- c) The timelines established, particularly with regard to personal property transfer and levels of maintenance and repair, are not compatible with local redevelopment plan timelines and specific closure dates.

I am proud to report that the City of Vallejo has recently completed the Mare Island Final Reuse Plan, within one year of the closure announcement. However, without appropriate guidelines in the form of the Interim Final Rule, it will be difficult to successfully implement this plan. I will now introduce Walt Graham, our City Manager, who will discuss our specific concerns with the Interim Final Rule.

Walt Graham, City Manager

Although we have comments on all sections of the Interim Rule, which we have already submitted in writing, we have limited our oral comments to there major ones, as requested. These sections are those regarding "Jobs-centered Property Disposal", "Economic Development Conveyances", and the "Minimum Level of Maintenance and Repair".

Jobs-centered Property Disposal

The Rule, as currently written, provides the Military Department with the initial opportunity to determine the market level for "high value properties". Furthermore, once they have established this level, they are entitled to sell such properties independent of the local redevelopment plan. Under these circumstances, it is likely that a "swiss-cheese" scenario will develop whereby selected properties are transferred to private parties which are incompatible with the local redevelopment plan. Such a scenario will seriously jeopardize any opportunity for the local community to successfully implement a truly comprehensive reuse plan. One example might be to have the Navy sell the Medical facility, thus jeopardizing the reuse plan regarding health services, and the large number of jobs it might create.

Economic Development Conveyances

The addition of "economic development" to the list of purposes qualifying for public benefit conveyance was initially exciting to all base closure communities. However, under this Rule, the properties that would likely qualify for such a no-cost transfer may be sold off prior to that opportunity. An example might be the Mare Island golf course.

Nevertheless, regardless of how such property is transferred, the process of determining its market value must take into account the costs to the local redevelopment authority, particularly with regard to necessary capital improvements; in other words, the price should reflect the "negative value" associated with the ownership of the property.

There is an apparent contradiction in two references to the term "high value properties" in that, on the one hand, the Military Department is given the right to market these properties independently, as I mentioned earlier; however, on the other hand, this section of the Rule makes the claim that the local redevelopment authority can use the revenue generated by these "high value" properties to help them cover their capital and operating costs. Both of these references can't be true! It is almost a Catch-22 situation.

Minimum Level of Maintenance and Repair

The proposed timelines during which the Military Department

is required to continue a "minimum level of maintenance and repair" are not compatible with the dates of base closure or property transfer. Specifically, this minimum level would be required to continue until a date which, in the case of Mare Island, would be "one week after the redevelopment plan is submitted to the Military Department". In our case, while the Plan has been developed and accepted by the City of Vallejo, we are concerned that its submittal to the Navy might trigger this termination date, with closure scheduled for 1996. The Rule, as currently written, would allow the Navy to discontinue this level of maintenance for up to 20 months, thereby placing the local community at an even greater disadvantage in its conversion efforts.

Although this is by no means a complete list of our concerns with the Interim Final Rule, I hope that our comments have provided you with a general understanding of the changes we feel are necessary. In conclusion, it appears as though the Rule, as currently proposed, will not facilitate the implementation of the President's Five-Part Program. This approach will lead to delays in the implementation of the conversion process, thereby slowing down the creation of new jobs for the local community. Given the significant impact of Mare Island's pending closure to our regional economy, it is absolutely necessary that rapid property turnover to the local community be achieved.

The City of Vallejo recommends that the language of the Interim Final Rule be significantly revised to more accurately reflect the spirit of the President's Five-part Program.

1 STATEMENT OF WALTER GRAHAM, CITY MANAGER, CITY OF
2 VALLEJO, CALIFORNIA

3 MR. GRAHAM: Thank you. Moving quickly through because
4 many of the previous speakers have touched on the same
5 concerns that we have, I would like to express concerns over
6 the opportunity of the military to sell off portions of the
7 property without an overall plan. I will give one or two
8 examples.

9 There will be perhaps a fire station which is a very
10 fine piece of property that could be used for a lot of other
11 different activities other than a fire station. But if that
12 fire station is sold off it means that the community is going
13 to have to back-build with another fire station, thus reducing
14 the value of the overall property that is yet to be sold on
15 the Island. So that we would ask that a very considered
16 effort be made to work with the cities in the selling of that
17 property to ensure that we don't end up with problems rather
18 than solutions as we go forward.

19 Another point to be made, having been made also before,
20 is with respect to those economic development conveyances.
21 We're all very pleased that economic development has been
22 added to the list of purposes for which a public benefit can
23 be achieved and property can be given to the community;
24 however, it's likely that the better properties are going to
25 be distributed more quickly, leaving us with the remainder

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1 that we'll have to resolve later on. We would like you to
2 address that carefully.

3 Finally, the minimum level of maintenance and repair.
4 Our mayor has indicated earlier that we have completed our
5 reuse plan, so we're ready to move on. But we recognize the
6 Navy has a responsibility and they have another year and a
7 half to complete their work there, but under the rules, as
8 written, the maintenance of effort ceases a week after we
9 present a plan to the Secretary, and that's been presented.
10 After 30 years in business, I still believe that good sense
11 will probably prevail over the written rule, but we ask your
12 consideration on that.

13 Finally, we would note that there seems to be a great
14 deal of additional work that needs to be done on that Interim
15 Rule, and you've indicated that you are prepared to make those
16 changes and that's why these hearings are being held and we
17 thank you for it and, reiterating the mayor's comments, we're
18 very pleased at the work that all of your staff has been doing
19 in working with us.

20 Thank you.

21 MR. BAYER: Thank you very much. I think some of the
22 problems that you are facing out in Vallejo -- as you point
23 out, you are the largest facility in terms of civilian
24 employment to be closed, and it is a bellwether of what we are
25 likely to see in the future. So we are very interested in

1 what happens at Mare Island, particularly as it relates to
2 that heavy civilian employee content and some of the creative
3 things that the community and the Navy have been doing
4 together to work on that particular issue, because I think
5 that is going to be something that we are going to use as
6 lessons in the future.

7 Mr. McCarthy?

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1 STATEMENT OF PAUL MCCARTHY, VILLAGE MANAGER/EXECUTIVE
2 DIRECTOR, GLENVIEW NAS COMMUNITY REUSE PLANNING GROUP

3 MR. MCCARTHY: I threw out my written remarks and
4 thought I would just speak somewhat extemporaneously:
5 Although my comments may still be shallow, at least they'll be
6 current as I try to pick up on some of the things that other
7 people have said here. I think one thing is that it is too
8 bad that this is being held on the last day of the process. I
9 don't know how you would have done it, but if you could have
10 done it on the first day of the process I think it would have
11 established a better relationship.

12 I can't help but think that if you're a normal human
13 being and if you read the tone and content of some of the
14 stuff that you have been getting, you have undoubtedly got to
15 think these people don't appreciate the complexities of our
16 stewardship responsibility. And when we read the rules, we
17 thought: These guys don't trust us. They assume we're either
18 malicious or incompetent. And I think the dialog exposes not
19 only what our mutual competencies are, but perhaps even more
20 importantly, what our fears are. We each have different sets
21 of fears. It lends a lot of lubrication to understanding
22 where each side is coming from. And we maybe need to sort of
23 circle the table instead of a labor and management type of
24 situation.

25 I do have a couple of comments on the job center

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1 property disposal -- who doesn't? I do think, first of all,
2 it has been cast erroneously in an attempt to balance the
3 Fed's need to make some money on these assets versus the local
4 attempt to maximize the economic development. I believe that
5 is a dynamic which is inaccurate because it is not a zero-sum
6 game. There is at least one situation that I know of where I
7 believe both objectives are compatible with each other and can
8 be achieved. And that we all ought to sort of keep that in
9 mind.

10 I do believe there are some flaws in these underlying
11 assumptions. One of them is that that process assumes that
12 the only real way to determine value is to put the thing up
13 for sale, and that denies -- what surprised me this morning is
14 that you're struggling to arrive at what net value is and
15 complexities involved with that. For us locals, we do a lot
16 of real estate. We do that real well. I think we can bring
17 some resources to the table in terms of partnership
18 agreements, and your rules ought to allow the flexibility of
19 allowing us to do that. And I don't think that they currently
20 do. I do believe that things like independent appraisals and
21 market studies and even the former examples of HUD and EDA's
22 effort, they can all go forward. I can't believe that that's
23 a difficult problem.

24 Another comment that I have about the job center
25 property disposal is that another underlying assumption is

1 incorrect, and that is the assumption that you can really
2 implement that. You can't implement it. Federal rules are
3 not the only real laws. We are in a federalist system in this
4 country, and local laws won't allow you to do what you're
5 proposing. In Illinois, for example, a literal reading of
6 your rule would represent a violation of the Illinois Platte
7 Act. You can't parcelize property. You can't offer it for
8 sale. You can't do transactions leading to private ownership
9 or leases without meeting the normal requirements of a
10 developer. And right now, I don't think you can meet those
11 requirements. So I suspect that we're both in the row boat,
12 and each of us has an oar, and that relationship could be
13 appreciated a little bit better.

14 How these rules will harm us, as an example, is there
15 are 54 cities in America with a triple A bond rating. We're
16 one of them. We're an Illinois home-grown municipality.
17 There are powerful legal constraints. We have a long track
18 record of providing access to capital at tax exempt rates and
19 putting things together. I have an industry that is prepared
20 to move in and build a 600,000 square foot brand new facility
21 and provide, over a 6-year period of time, a thousand new
22 jobs. I can't do anything until I find out if you're going to
23 change these rules or give me a waiver.

24 I have another prospect that is an extremely high
25 profile magnet industry that wants 20 acres of land. I'm

1 frozen in time and space here. And the longer this dialog
2 goes on the more it hurts us. So in a way, we're asking you
3 to reevaluate what the heck it is you're doing, but do it
4 quickly. We're going to close in 1 year -- September of '95.
5 For a '93 community, it's imperative to be able to get quick
6 resolution of these things.

7 The other recommendations that I would make to you are
8 two or three. One is, and I would like to say to Captain
9 Durgin and Mr. Roth that my mayor has given me explicit
10 instructions to say, as far as we're concerned, and this is
11 not just sucking up, it is in fact the literal truth, the
12 people we have dealt with in the Navy are probably the finest
13 people drawing Federal paychecks. We're very proud of them,
14 we're very hopeful to work with them. It's you people that
15 we're afraid of.

16 (Laughter.)

17 MR. McCARTHY: So there are two suggestions. Number
18 one, you ought to consider reversing the process. Use the job
19 center property disposal as the body you leave hanging in the
20 town square as a death threat, but don't threaten everybody
21 with death. If communities have their act together, they
22 should be given an economic development transfer, get out of
23 the way, and let us make some money for you.

24 And the last thing I'd say to you is, don't be afraid to
25 differentiate. Don't be afraid to give the service arms the

1 ability to make their independent judgments. We're not all
2 Fort Sheridan or Treasure Island or Long Beach. Some of us
3 are a slam dunk. Treat us as a slam dunk.

4 And I guess the last thing I'd just say is that you
5 ought to have an ability to provide waivers to communities
6 that are ready, willing, and able, fiscally and financially,
7 to do it, and we believe that a literal reading of the laws
8 say that '93 cities, that they apply generally to them. We
9 think that some '93 cities are further ahead than '88 and '91
10 cities, and just as the exclusion made sense for them, if we
11 can meet those criteria, it ought to make sense for us.

12 Thank you.

13 MR. BAYER: Thank you very much, and I will tell you
14 that we are working on the waiver request just as quickly as
15 we can.

16 Mr. Simon?
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1 STATEMENT OF JEFFREY SIMON, DIRECTOR, FORT DEVENS
2 DIVISION, MASSACHUSETTS GOVERNMENT LAND BANK

3 MR. SIMON: Thank you very much. I guess I'd like to
4 begin by reiterating virtually every point that Mr. McCarthy
5 just made. So I guess I'll go home.

6 (Laughter.)

7 MR. SIMON: The primary goal, as you have well
8 presented, of the President's five-point plan is to create
9 jobs by making property disposal to redevelopment agencies a
10 high priority. The ^{Prior}~~prior~~ amendment provided the statutory
11 authority necessary for military departments to proceed, with
12 no initial cost transfers to local redevelopment authorities.
13 The DOD regulations, however, put the emphasis back on the
14 sale of property for some notion of fair market value, and I
15 would just like to speak to one example, as has been mentioned
16 here before, the famed ready market tests.

17 The military departments are required first to identify
18 properties that are readily marketable. Second, they
19 determine the value of these parcels by appraisal and a
20 6-month solicitation for offers to buy, and third, to sell
21 those properties quickly to produce jobs. This scheme has
22 three serious flaws.

23 One, the military departments have very limited ability
24 to identify parcels that have a ready market, and the
25 regulations provide no guidance; two, the value of base

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1 property is dependent, to a large degree, on factors beyond
2 the control of the military departments -- local zoning,
3 permitting requirements, long-term availability of utilities
4 and services, and tax rates; and third, the 6-month
5 solicitation period will delay the disposal process and has
6 the potential of damaging the real marketing of bases that
7 redevelopment authorities must undertake by raising
8 expectations of potential buyers that cannot possibly be
9 filled by the military departments.

10 For example, the Army at Fort Devens has no ability to
11 make any kind of long-term commitment for utilities and
12 services to any potential purchaser. In sum, the assumption
13 that the quick sale of readily marketable properties will
14 result in creation of jobs is simply incorrect. Attracting
15 job producing companies to Fort Devens will require
16 sophisticated marketing, a coherent reuse plan, regulatory
17 stability, and numerous financial incentives. The
18 availability of property alone at Fort Devens will not attract
19 job producing companies.

20 We have additional concerns in several areas that have
21 been covered by others today, so I will skip them. I would
22 like just to point out one that I think is most important, and
23 that is that the regulations need to encourage joint ventures
24 between the military and redevelopment entities. We are
25 currently negotiating this kind of agreement with the Army,

1 and this could be, in my judgment, the single most important
2 change.

3 I would like to close with just one suggestion on how to
4 take the laudatory goals of job center disposition and begin
5 to quickly construct the specifics of a system that really
6 will work. My comments are based on one central premise, a
7 premise which has, I feel, been sorely missing from the effort
8 to date. That premise is that the best people to design any
9 system are those closest to its result. This is not rocket
10 science. This is not even hard. We just have had some very
11 important players missing from the development of the process.

12 In the current lingo of some of my friends at the
13 business schools, this is known as, quote, getting close to
14 your customers, who are sitting down here in the audience
15 today. In part, this is what's happening here today, and we
16 appreciate it. But the effort cannot and will not succeed if
17 policy continues to emanate centrally from the Pentagon to
18 that most decentralized venue, local economic development as
19 practiced by the thousands of mayors, city councils,
20 selectmen, boards of health, planning boards, redevelopment
21 authority, private developers, and banks and other entities,
22 all of whom have a piece of developments as large as military
23 bases.

24 We have recently agreed on a deal with the leading
25 manufacturing technology research institute in Germany,

1 Fraunhofer Gazelschaft, to come to Devens in partnership with
2 Boston University and United Technologies. The reason that we
3 were able to secure this deal is because we have a reuse plan
4 with clear goals and we have designed a single unified
5 permitting process that, quickly, efficiently, and thoroughly
6 speeds businesses through the regulatory process with no loss
7 of public protection. This process, which merges the
8 oversight of 15 boards into one, was designed over an 8-week
9 period by a group that included regulators, business people,
10 and public officials, and is now law in the State of
11 Massachusetts.

12 Respectfully, I urge that the same is needed here. I
13 know many of the people here today, and have been hearing the
14 same issues discussed since that day a year ago in July when
15 the President announced his five-point plan. The last year
16 has shown that even good legislation can be undone with
17 uninformed implementing regulations. We really need to end
18 the you propose, we react, you propose, we react, you propose,
19 we react, system.

20 I would suggest that you immediately convene a task
21 force of four public sector members from the National
22 Association of Installation Developers, four real estate
23 members -- real estate developers -- from the Urban Land
24 Institute, and four members from the Federal Government, and
25 that you task this group with a redraft of the regulations.

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1 Give this task force a limited timeframe -- say 90 days, a
2 modest travel budget so that people can get together, and some
3 good staff support.

4 We tried this approach at Ford Devens with the Army on
5 environmental issues, and together we have cut 1 year off of
6 the State and Federal environmental review process. It can
7 work, it will work, and, if you are willing to be bold enough
8 in your efforts and secure enough in your institutional egos,
9 this proposal will produce results which will accomplish real
10 job center disposition.

11 I tremendously appreciate the opportunity to be here
12 today, and particularly appreciate the tone that you are
13 conducting this hearing in. Thank you.

14 MR. BAYER: Thank you, Mr. Simon.

15 Are there questions from the panel?

16 MR. HERTZFELD: Yes, I have some questions.

17 Many of you have gotten together reuse committees rather
18 quickly and came up with plans rather quickly. Many of the
19 panelists here got together reuse committees rather quickly
20 and reuse plans rather quickly, and we commend you for those
21 results. I was wondering if you could share with us any
22 reasons for your success and any recommendations for what we
23 can do in the regulations to offer incentives to those
24 communities that maybe are not willing or able to work as fast
25 as you?

1 I know that in South Carolina, in one of the communities
2 there, there has been a dispute between the city and the
3 county government, and that has caused some delays in the
4 process. So I was wondering if you could offer some learning
5 experience that we could use?

6 MAYOR INTINTOLI: It is a little hard to generalize, and
7 I think one thing you ought to be very careful of is when you
8 are drawing regulations you need to respect those differences.
9 In a community like Vallejo where the base is entirely within
10 its jurisdiction, the advice that we received, I mentioned
11 earlier, the advice we received from OEA, from Paul Bensey,
12 based on previous experience, that he gave to me within a
13 couple of weeks after the closure, when he was out there, he
14 said in successful conversions they've started with the team
15 that fought the conversion, which in our case was regional,
16 and incorporated the adjoining county of Napa, as well as the
17 City of Napa and the other cities of Sonoma County, and used
18 that as the core, and then add to it the legitimate interests
19 that would be needed in any reuse planning. For example, the
20 labor unions, the open space groups, the homeless groups, all
21 of that, we brought into a 52-member committee. I think it
22 helped to have that kind of original perspective from the
23 start.

24 The recommendations that we received were that the
25 committee should not exceed maybe 30 people. It ended up at

1 52, but it is very hard to exclude people. In my case, it was
2 facilitated by the charter provision for us that indicated the
3 mayor could appoint committees. I don't think they were
4 thinking of that kind of committee, but it said that and
5 that's what we did because we needed to do it.

6 I don't know, I think you have to be, as I say, very
7 careful when you go from one community to another, because
8 when you have a base or a facility that has multiple
9 jurisdictions on its borders that presents a different problem
10 in terms of the decisionmaking with respect to zoning and
11 general planning. I think the regions have to be represented,
12 but you can do that. In our situation, you can do it in the
13 planning process. This seemed to work very well.

14 MR. MCCARTHY: I think a great deal depends on the
15 environment in which the closure is taking place, and in
16 Glenview's case we're just a tribute to the old cliché that it
17 is better to be lucky than to be smart. The base happened to
18 be completely within our municipality, we are surrounded by
19 similar like-minded suburbs, and we have six governments,
20 school districts, park districts, libraries, that kind of
21 stuff that will be in the business of delivering services
22 there when it converts. And so what we did was to focus on
23 who was fearful, who was hopeful, let's get them in the room.

24 In our context, it turned out to be the various special
25 district governments that existed, but in fact, with the

1 exception of a township which is a small form of government
2 that we are a part of, none of the surrounding towns are in
3 part of the taskforce, but they are highly prepped and advised
4 and dialogued as to what is going on.

5 The other thing, which is going to sound like Shirley
6 Temple but I really believe it's a lubrication that has made
7 things work in Glenview, is there has been a long-standing
8 political ethic which has rewarded cooperation between and
9 among the governments, and so it has been the thing to do, is
10 not to fight with each other, and to make nice. And that kind
11 of thing becomes a very powerful glue if people believe that
12 there's good faith at the head.

13 MS. STITH: I just wanted to say I know that we've
14 probably been very open and honest with the political disputes
15 in South Carolina and how they have affected the organization
16 of the redevelopment authority. However, I don't think in any
17 way that has lengthened the time it has taken to convey
18 property to a redevelopment authority. As the mayor so aptly
19 stated, there are jurisdictional issues when you have multiple
20 local jurisdictions that have to be resolved. There has to be
21 an open community planning process through which these
22 disputes are discussed, and that may take time in some
23 communities.

24 What has been very frustrating to us at the same time is
25 that we have had to find ways to go around the established

1 conveyance procedures to actually have property conveyed, and
2 I think that is true with a lot of other communities in the
3 Nation. We have successfully conveyed probably three-quarters
4 of Myrtle Beach Air Force Base to the State of South Carolina,
5 either through the airport conveyance or through special
6 legislation. But it is not through the rules as they are
7 stated. And I think what we are all asking is for some rules
8 that will enable us to facilitate this development.

9 I think that would be the best thing for communities
10 because there would be a clear course of action for
11 communities to take that would allow them to see a goal rather
12 than be frustrated by a lot of barriers along the way.

13 MAYOR TICER: I think that the word here that
14 encompasses what everyone has said is inclusion, and it is
15 inclusion of the people who are going to be affected by the
16 decisions. And in our case, as in everything we do, when it
17 became part of our zoning and master planing process, we
18 segmented the city. That is not to say we segmented the
19 population, but we brought in everyone in small areas so that
20 they could discuss competently what was going to happen to
21 them.

22 Our plan is in accordance with the rest of the city's
23 plan, and I think that getting all the players around the same
24 roundtable, airing their grievances and talking together at
25 the beginning were what made ours a success. We were very

1 fortunate in this case.

2 I deal, as chairman of COG in this area, with the
3 District of Columbia, Maryland, and Virginia, and all of the
4 various entities within them, and that is a little bit
5 different playing field. We, on Cameron Station, were all
6 Alexandrians. We have a reputation for working together, so I
7 think we were lucky.

8 MR. GRAHAM: Perhaps one comment from me with respect to
9 the administrative actions. Rules can be used to either
10 regulate or to facilitate, and we would hope that your group
11 would dwell very strongly on the opportunity to facilitate a
12 final positive result.

13 MR. BAYER: Let me ask a question of the panel that
14 relates to the issue that has come up several times this
15 morning about cherry picking. And particularly, it has come
16 up from the perspective of the opportunity that the Defense
17 Department has right now to sell land directly, whether it is
18 feasible in a local jurisdiction or not, setting that aside,
19 doing that in consultation with the community. Looking at
20 that same concern from the opposite point of view, when a
21 community is master-planning a site, obviously, from the
22 Defense Department perspective, we would like to turn the
23 entire property over to a community as quickly as possible.
24 That saves the Federal taxpayer substantial sums, and we know
25 there are some major obstacles to doing that, particularly

1 with these very large properties that aren't going to be
2 developed quickly.

3 But what is the protection -- let me put it that way
4 because I can't think of a better way to say it right now --
5 what is the way that we protect communities from cherry
6 picking properties of high value and relatively quick
7 redevelopment in terms of wanting those properties but being
8 unwilling to take over the larger property? In other words,
9 it seems to me that we're both looking at the problem from
10 opposite ends of the telescope, and I'd be interested in your
11 views on that.

12 MR. MCCARTHY: This may represent heresy, but I think a
13 reasonable case can be made that if a community is looking for
14 an economic development transfer it gets the whole 9 yards or
15 nothing. And I think that cherry picking is something to be
16 feared by both sides here.

17 MR. BAYER: But Glenview, perhaps, has a much more
18 favorable situation than, say, Mare Island.

19 MAYOR INTINTOLI: I think our concern is we have
20 developed a plan that is multiuse, and we would want to be
21 sure that if there were properties sold off that they were in
22 conformance with that development process, that the plan was
23 given very careful consideration because an awful lot of
24 effort goes into it, and if you create that expectation from
25 the public that this plan means something, and then something

1 is cherry-picked off and destroys the integrity of the rest of
2 the plan, that's a problem, a big problem.

3 I would think one of the recommendations I think we've
4 submitted in writing or may have heard it today, as well, is
5 that you have restoration advisory boards that deal with
6 advice from the community in terms of the cleanup. I don't
7 know why you couldn't have similar input while the process is
8 going on for consideration of sale by the boards or committees
9 set up from the community, from the redevelopment authority.
10 In our case it would be the city council that would be in that
11 process. So that whatever is sold off is sold off in
12 accordance with that plan and with an understanding of that
13 plan and with an input that comes before the decision, not
14 after it.

15 MR. BAYER: Right, but the flip side of that being if we
16 want to transfer the entire property to the community, but
17 they see a substantial liability, a substantial cash-flow
18 problem of accepting that.

19 MAYOR INTINTOLI: We couldn't take it if it meant \$13
20 million a year, which is what the estimates are, into \$13
21 million, so that -- the city manager may disagree with me, but
22 I don't think we'd be in a position to be able to afford that
23 kind of transfer, with all of the responsibilities that went
24 with it.

25 MR. SIMON: I think another point on cherry picking by

1 communities is that you need to look at the causes of what
2 makes one parcel a good parcel and therefore available for
3 cherry picking and another one a dog, if you will. If the
4 cause is because it is covered with housing units that have
5 lead paint and asbestos, and therefore that makes that
6 property a low-value property, then the reality is that there
7 is going to have to be some Federal dollars appropriated to
8 take care of that, either to knock it down or to delead it or
9 to make it so that the community can create value.

10 But I would say the flip side of that is that the
11 Federal Government ought to be able to share in whatever value
12 is created, and that is why in my comments I thought that
13 joint venture proposals really put aside all of this question
14 of what's good and what's bad and get everybody on the same
15 side of the table trying to create as much value from every
16 square inch of that property as possible.

17 MS. STITH: Right now, I think you all have a good feel
18 for most base closure communities what's going on and what
19 people are planning for redevelopment. And I think what we
20 have been trying to say is this collaboration and this sharing
21 of plans and ideas, you are going to know, if a community is
22 saying, we cannot take this part of the shipyard because we
23 cannot afford to manage it or redevelop it, it is a white
24 elephant.

25 There are lots of white elephants in bases. They are

1 valuable properties, but you have to balance the two, and I
2 think if you negotiate with each individual community, you
3 want the flexibility to try to work out situations that will
4 appeal to a shipyard community or appeal to an air base
5 community that is in a rural area that cannot use their base
6 as an airport.

7 But no one solution is going to be the same or
8 applicable to another community. And I don't think the
9 Federal Government or even local communities have dealt with
10 these issues before. It is of a magnitude that none of us
11 ever imagined. But we need some flexibility and some latitude
12 in being able to come up with solutions that are going to be
13 productive in the long run.

14 MAYOR INTINTOLI: One last thing. We are working now on
15 negotiating the terms of our master lease with the Navy. I
16 would think many of these issues could be resolved under the
17 terms of that master lease, which would set the schedule and
18 the terms for takedown of properties as they become clean,
19 parcelized, and ready for transfer. Most of the issues that
20 you are talking about would be appropriate for inclusion in
21 such a master list.

22 MR. ROTH: I would like to follow up on that. I was
23 just about to ask a question of you, mayor, and also of you,
24 Ms. Stith, with regard to leasing. I know you are both where
25 the shipyards are contemplating potential leasing actions. I

1 was just curious if there is anything in the regulations that
2 you've read that you think might need modification to
3 facilitate some of the leasing issues that you'll be facing.

4 MS. STITH: The one problem I can see in implementation
5 of Charleston's redevelopment plan is getting past the
6 environmental issues. I think there has been a disconnect
7 with the funds that are available for the kind of
8 environmental testing that any community needs to have results
9 from to know whether it is feasible to begin reusing
10 properties. And we don't have anybody from EPA here to sit
11 down and talk about how we can come to some better
12 understanding on what is going to be clean enough for reuse.
13 That is the one concern that I think we have in that area.

14 MAYOR INTINTOLI: As far as our master lease is
15 concerned, we are in the process of negotiating that. I have
16 not really heard of any specific issues related to the rule
17 that affect that. Right now, the only reuse going on is by
18 the Navy, and it is by license agreements for a year or less,
19 so they don't fit within this framework.

20 MR. BAYER: Are there other questions?

21 (No response.)

22 MR. BAYER: Okay, thank you very much. I appreciate
23 your time in being here.

24 We have one more panel of folks who indicated an
25 interest in testifying before us today, and then I believe we

1 will have a final panel of individuals who signed up to
2 testify this morning. So that is the order of the agenda for
3 the remainder of the early afternoon.

4 Could we have our next panel please?

5 GROUP 4

6 MR. BAYER: Good afternoon to our fourth panel. I am
7 sorry that the audio portion is as problematic as it is. My
8 only observation was, going around to outreach sessions in
9 hotels around the country it wasn't any better.

10 Our fourth panel is represented by folks from a variety
11 of communities as well as organizations. We welcome Mr. Dick
12 Martin from the Castle Air Force Base Joint Powers Authority;
13 Mr. George Schlossberg, no stranger to the Defense Department,
14 who is General Counsel for the National Association of
15 Installation Developers; and Ms. Jane English, who is the
16 President of NAID -- we welcome you both; Mr. Lynn Boese,
17 Assistant Attorney for the City of Lawrence, Indiana, which,
18 as I understand it, includes Fort Ben Harrison; and finally,
19 Mr. Lee Grissom, who is the director of the Governor's Office
20 of Planning and Research for the State of California, a State
21 that has been substantially impacted by base closures, and I
22 must say also has been in the forefront of thinking through
23 these defense conversion issues, so we're really glad to have
24 you here, Lee.

25 Jane English, why don't you begin?

1 STATEMENT OF JANE ENGLISH, PRESIDENT, NATIONAL
2 ASSOCIATION OF INSTALLATION DEVELOPERS

3 MS. ENGLISH: Thank you. Earlier, on the 25th of
4 June -- can you hear me now? Earlier this year, on the 25th
5 of June, Senator Pryor had set up an appointment to meet with
6 all or most of you and Secretary Gotbaum. At that point in
7 time, we were invited to come up with a proposal for
8 identifying a few high value base closure properties without
9 resorting to DOD efforts to sell the property in advance of
10 the community-based reuse planning process.

11 We put together an alternative approach, and it is
12 offered by our NAID membership -- I won't read it all -- which
13 would strengthen the base reuse planning process as both a
14 land-use plan and a business plan. This alternative approach
15 would reemphasize the community base reuse plan's key document
16 for identifying the physical and environmental conditions on
17 the base, as well as the likely long-term costs and revenues
18 to develop the facilities. It will clarify the key role of
19 the local redevelopment authority as the primary entity in
20 planning and marketing the surplus base facilities.

21 This would build into the base reuse plan a thorough
22 dialog with the real estate brokerage and development
23 professions; it would allow the local redevelopment authority,
24 in the case of a few potential high-value properties, to offer
25 joint venture marketing approaches where the military

1 departments, as limited partners, would receive their maximum
2 sales and lease returns over the long term based on local
3 zoning development, entitlements, and planned infrastructure;
4 it would call for the impartial third-party identification of
5 possible high-value properties using the community base reuse
6 plan objectives, allowing the communities to participate and
7 to offer revised proposals to DOD. We are hopeful that this
8 alternative approach will identify the major obstacles and the
9 market opportunities for the property during the local base
10 reuse planning process, and will also overcome DOD's concern
11 on having to market the property prematurely.

12 We are also submitting comments on the existing interim
13 Final Rules to Mr. Bayer, and we are hopeful that you will
14 encourage an open dialog with the impacted communities before
15 arriving at the published Final Rule. The current process of
16 publishing the rules in the Federal Register does not lend
17 itself to the communities understanding the DOD perspective
18 and vice versa. There is precious little time remaining, and
19 an open dialog with the customer communities who must reuse
20 and manage the properties is very much needed.

21 Our NAID member communities are pleading for a joint
22 DOD-community understanding and acceptance of the Final Rules
23 that will implement Title XXIX of the 1994 defense
24 authorization bill. I think Jeffrey Simon said it quite
25 clearly earlier, that it's very difficult for all of us to

1 anticipate. As we feed to you, we can't see behind your
2 minds, and it's hard to understand where you're coming from,
3 so we would like to be able to have, and certainly endorse his
4 idea of, a partnership where we can sit down together and
5 figure out a way to come up with a set of rules that are good
6 for you and for us.

7 Thank you.

8 MR. BAYER: Thank you.

9 Mr. Schlossberg, since you are representing NAID, as
10 well, why don't you speak next, and perhaps you can expand on
11 these comments.

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1 STATEMENT OF GEORGE SCHLOSSBERG, GENERAL COUNSEL,
2 NATIONAL ASSOCIATION OF INSTALLATION DEVELOPERS

3 MR. SCHLOSSBERG: First of all, thank you. It's nice to
4 be back and see people I worked with for years.

5 I did not have a prepared statement. I wanted to
6 respond to what many of the panel have said, and I've been
7 taking notes, as I'm sure you have. I understand that in the
8 instructions on the comments you wanted specific paragraphs
9 and specific identifiable problems. Like you, NAID has been
10 monitoring the comments as they have come in. They are
11 voluminous. There are many that respond exactly, as you have
12 requested, and I thought what I would do is I would like to
13 talk about some of the common threads that we see. I would
14 like to address some of the common threads that I thought were
15 coming up time after time in the comments.

16 If you are a hammer, every problem looks like a nail,
17 and the comments have been dividing themselves up, at least
18 the way we've been reading them, in there are those of a real
19 estate nature and there have been those of an economic
20 development nature. The first panel, during the questioning
21 of the first panel, there was a very good discussion of how a
22 real estate developer would seek to extract maximum value from
23 property. The other side of that equation is economic
24 development, and the Department of Defense has done an
25 excellent job trying to balance economic development and real

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1 estate development.

2 On behalf, I think, of the NAID communities, I really
3 urge you to reject that, reject the balancing. I think that
4 the mandate of the President, the precedent of the Pryor
5 amendment, is very, very clear that economic development is
6 the primary goal and that much of the discussion about the
7 protections that are required, they are necessary, but they
8 come across as a developing entity.

9 One of the earlier speakers, whom I will not identify,
10 last night said the Department of Defense is coming across
11 here as a real estate developer in my community. They've got
12 the land, and they wish to choose what to do with that
13 property. And I think that the community wishes and goals
14 need to be taken into account.

15 Now, how does that come about? I think the way that
16 that comes about is the primacy of the reuse plan. The rules
17 talked repeatedly about how the reuse plan would be the
18 hallmark and guiding mark. And I promised others here that
19 since everybody else was talking about job-based property
20 disposal I would not talk about it. I'll leave that unsaid.
21 I think the rules speak for themselves.

22 There are a couple of other things that have not been
23 dealt with by others that I would like to expand on before
24 Kirby shuts me off here, and that is I'd like to talk a little
25 bit about interim leases. There was a question earlier about

1 what could be done to make interim leases more useful to the
2 communities. And interim leases are crucial. They are the
3 life blood of the process because when the base closes or as
4 the base closes the human capital is leaving. The people are
5 gone. If we wait until the property is cleaned up before the
6 property is put to productive use, there isn't much of a
7 community left in many instances. Some communities can afford
8 to wait; most cannot.

9 So what do we need in the interim leases? I think that
10 one thing we would need is we need to have an assured term
11 that is long enough to amortize improvements. Many of the
12 facilities are not usable by the private sector, and they
13 require, in some cases, a good deal of improvement, in some
14 cases only minor improvement. Private developers are not
15 willing to put in their own capital unless they have an
16 assured term. And I understand the balancing that has to go
17 by on that and how the Department needs to get the property
18 back and ultimately dispose of it. I believe that that can be
19 balanced.

20 The second issue is personal property. I don't believe
21 anybody has mentioned personal property yet today. The
22 personal property at the bases can sometimes be the life
23 blood, also, of the reuse plan. If you're a port facility,
24 the cranes help. We don't need to go through the stories
25 about some of the personal property that's been pulled out. I

1 would just urge the Department to establish a mechanism. That
2 has occurred at many bases. Right now, it appears to be
3 pretty much whether your base commander is willing to work
4 with you. If the base commander is, and there are some very
5 successful projects, the personal property stays. I think
6 that there needs to be more taken into account and less
7 response at the command level.

8 I'll yield. Thank you.

9 MR. BAYER: Thank you very much, Mr. Schlossberg.

10 Next is Dick Martin.

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1 STATEMENT OF DICK MARTIN, EXECUTIVE DIRECTOR, CASTLE AIR
2 FORCE BASE JOINT POWERS AUTHORITY

3 MR. MARTIN: Good morning, Mr. Secretary. I appreciate
4 the opportunity to comment. In the interest of time, I'll
5 just briefly speak to one issue that hasn't been addressed, to
6 my knowledge. It affects those of us who have our bases
7 primarily in the farms and fields of this country. I am
8 talking about the rules and their current definition of rural
9 areas.

10 As it stands now, the rules used in the definition of
11 rural means outside a standard metropolitan area. Standard
12 metropolitan areas often include outlying counties that are
13 more rural in character than are the metropolitan areas.
14 There are two examples: the small community of Heath,
15 Ohio -- Newark Air Force Base, is located in Licking County,
16 part of the Columbus standard metropolitan area. Yet
17 agriculture is a primary industry. All three county
18 administrators are full-time farmers. In Tooele County, Utah,
19 the Tooele Army Depot is part of the Salt Lake City standard
20 metropolitan area, yet the county and the depot are located in
21 an isolated valley, well away from Salt Lake City.

22 There are a couple of alternatives that we suggest you
23 might look at. Number one is, use the Farmer's Home
24 Administration criteria for rural areas, as they define rural
25 areas, or indicate that communities without strong real estate

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1 markets and with less than, say, 100,000 people within 10
2 miles of the base are rural, and then use that as a definition
3 to carve out these bases that really de facto are rural areas,
4 yet because of the way the standard metropolitan area is
5 defined, they are within those boundaries.

6 Thank you for the opportunity to comment.

7 MR. BAYER: Thank you very much, Mr. Martin.

8 Mr. Boese.

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1 STATEMENT OF LYNN BOESE, ASSISTANT CITY ATTORNEY, CITY
2 OF LAWRENCE, INDIANA

3 MR. BOESE: As many of you know, Fort Harrison was on
4 the 1991 base closure list, and the Pryor amendment and the
5 interim rules came midway in that closing process. Generally,
6 we've found that these changes have been very beneficial, and
7 at this point the biggest help has been the presence of a base
8 transition coordinator. That has streamlined our process and
9 made it move much more rapidly.

10 We are working toward requesting an economic development
11 transfer. And incidentally, that will be for a substantial
12 part of the base that will be reverting to civilian control.
13 One of the issues that we are concerned with is the real
14 estate appraisal rules that relate to economic development
15 transfers, and I'd like to direct my comments to those issues.

16 As I understand it, you kind of wanted some basic
17 suggestions about how we can assist that process or assist
18 those rules, and I think that I see two things that could be
19 beneficial. One is that the military departments establish a
20 uniform set of basic real estate appraisal assumptions, and
21 that they be willing to negotiate those assumptions with each
22 community on a case-by-case basis. Every one will differ.
23 And then, lastly, that process should be open, and the results
24 thereof should be shared between the military departments and
25 the communities.

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1 I think there are a number of factors relating to the
2 real estate assumptions that are fairly well recognized in the
3 communities that may not be as well recognized by the DOD and
4 the military departments, and I'd like to identify some of
5 those.

6 First of all, basing the appraisal on the proposed reuse
7 is, I believe, inequitable to the community. The traditional
8 approaches of economics, market, and replacement may not work
9 in the unique field of military base closures. Simply stated,
10 the property should be appraised as is, where is, and not
11 based upon the proposed reuse that may in fact never occur or
12 may undergo substantial modification before it becomes
13 reality.

14 The proposed reuse is too speculative a concept upon
15 which to base the appraisal. In all likelihood, the military
16 base property will not be zoned for civilian reuse. Zoning is
17 a local legislative process, separate and distinct from the
18 reuse planning, and appraising that property without proper
19 zoning will be difficult, if not impossible.

20 Appraising based upon the reuse may, in all likelihood,
21 I feel, tend to penalize the community for creating value
22 where none exists at the present time. In a competitive
23 market, the communities will have to provide entitlements and
24 improvements to the real estate in many instances, and to
25 attract major employers they will have to offer incentives and

1 abatements. It will be impossible for these factors to be
2 considered in the appraisal process.

3 I think the appraisal will necessarily have to consider
4 the effects of McKinney on the value of adjoining properties.

5 Some amount of demolition of existing improvements will
6 in all likelihood be required, and almost universally the
7 military property will not meet modern development standards
8 such as setbacks, bulk, height, parking, et cetera, and in no
9 small effect, the Federal property disposal process has a
10 negative effect on value that I think should be taken into
11 consideration. How will the property be parceled for
12 appraisal is a big question that we will have as we approach
13 the Department of Defense for an economic development
14 transfer. Will it be appraised in gross, in blocks of
15 existing like use, in small parcels, just how will it be
16 broken down?

17 The military department must also recognize that a
18 property's value is generally determined upon the assumption
19 that the sale will be consummated on a date certain, and that
20 title will pass under normal conditions. My experience is
21 limited, but I don't see that happening in this situation.

22 Lastly, I would like to urge that the appraisals be
23 shared with the local communities. My sole experience is with
24 the Corps of Engineers, and we are informed that they will not
25 share with the local community appraisals that they obtain for

1 the property. I don't feel that that's beneficial to any of
2 us.

3 I noticed in the summary of the rules there was the
4 comment that historically the process of selling bases for
5 fair market value has been, one, time consuming, and that,
6 two, the proceeds have been less than originally anticipated.
7 I submit that you received, although it was less than you
8 anticipated, fair market value for those properties because of
9 the definition of fair market value, but you did not receive
10 what you had originally appraised the property to be worth,
11 and that, I think, exhibits the problem. So I think by
12 considering some of these factors and working with the local
13 communities in developing these appraisals, we can serve our
14 mutual best interests.

15 In response to a couple of things that have been said
16 earlier, I would like to just briefly comment.

17 There was talk about deed restrictions. We don't want
18 any more deed restrictions coming on the property that we take
19 than what we anticipate that are going to be there to begin
20 with. I think we need to keep this as simple as possible.
21 Simplicity and flexibility will be the hallmark of a
22 successful economic development.

23 Simply stated, if the city qualifies for an economic
24 development transfer, I think it should be made, and then the
25 Army -- in our case the Army -- or the Department of Defense

1 should get out of the way and let us do what we can do, and I
2 think do better than the Army can do.

3 I am concerned about being a joint venture partner with
4 the Department of Defense. On a limited basis, or if the
5 Department of Defense wants to be a limited joint venture
6 partner, I think that will be fine. But I am really concerned
7 that that joint venture relationship become a situation where
8 the Department of Defense is the 900 pound gorilla, and
9 nothing happens, and the local community becomes the limited
10 partner. That really bothers me, and I think that that would
11 deter effective, viable, economic development.

12 Thank you for the opportunity to be here.

13 [The prepared statement of Mr. Boese follows:]
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T.E. Lay #1

My name is Lynn Bocce. I am Assistant City Attorney for the City of Lawrence, Indiana. Lawrence is a suburb of Indianapolis and home to Fort Benjamin Harrison.

Fort Harrison was on the 1991 Base Closure List and is scheduled for final closure in July 1997. The Pryor Amendment and the Intrim Rules came midway in the closure process for Fort Harrison, but generally we have found that the changes are beneficial and helpful. At this point at Fort Harrison the presence of a base transition coordinator has been the single most helpful result of the Pryor Amendment. However, we are generally of the opinion that in the end we will have created more jobs more quickly as a consequence of this change of policy. We are feverishly working towards positioning ourselves to request an economic development conveyance of a substantial part of Fort Harrison that will ultimately revert to civilian control and we believe that through this process we can achieve the maximum economic return on the redevelopment of Fort Harrison. Although I recognize the enormous complexity of the job facing the Department of Defense as it downsizes, I can't help but admonish you to keep in mind that simpler is better from our standpoint.

Although there are a number of provisions of the Intrim Rules that I could address, many have been adequately covered by prior speakers or will be covered by speakers following me. Therefore I will direct my attention basically to the real estate appraisal provisions.

As I have read through the Intrim Rules and weighted the application of the rules to Fort Harrison and our community I have been troubled by the potential for conflict and confusion as the real estate appraisals rules would apply to Fort Harrison or any other

facility. I am fearful that the lack of clarity and guidance in the real estate appraisal rules, particularly as related to economic development conveyance, will result in inequity, controversy and disruption of the disposal process.

In rectifying what I see as problems in the guidance and the real estate disposal process I would urge that we remember two things:

1. We are all in this together and I submit that what is good for the local community is ultimately good for the American people. It may be that short term neither DOD nor the local community benefit, but we must far-sighted.

2. Which brings me to my second point, when you go to a baseball game you want to see the whole game not just the first inning. Too often I sense that DOD is interested in the first inning and the local community is the only one interested in the bottom of the ninth. The underlying purpose of the Pryor Amendment was job creation and economic development. We can rapidly start the process, but realization of the benefits may be sometime off in the future. DOD must recognize that the disposal process is only the first inning and the local community will be there until the game is over.

In order to arrive at the most equitable real estate appraisal I believe:

1. The military department should establish a uniform set of basic real estate appraisal assumptions for use in base closure situations.

2. That amendments to the basic assumptions should be negotiated and agreed to between the military department and the local community on a case by case basis to accommodate special circumstances.

3. The appraisal process and the results thereof should be open and shared between the military department and the local community.

The appraisal assumptions should recognize some universal truths that are commonly understood by the local community but may not be equally understood or at least acknowledged by DOD and the military departments:

1. Basing the appraisal upon proposed re-use is inequitable to the community.
2. Traditional appraisal approaches of economics, market and replacement may not work in the very unique world of base closures.
3. The property should be appraised "as is, where is", not based upon the proposed re-use that may never occur. The proposed re-use is too speculative a concept upon which to predicate the appraisal.
4. In all likelihood the military base property will not be properly zoned for civilian development. Zoning is a local legislative process separate in most cases from the re-use planning. Appraising without proper zoning will be difficult if not impossible.
5. Appraising based upon proposed re-use may penalize the community for creating value where none now exists. In a competitive market communities will provide entitlements and improvements to the real estate and in many instances to attract major employers will have to offer incentives or abatements. It will be impossible for these factors to be considered in an appraisal based upon proposed re-use.
6. The appraisal must recognize the effect of McKinney on the value of nearby property.

7. Some amount of demolition of existing improvements will in all likelihood be required. Further the military base property more than likely does not meet modern development standards such as set backs, parking, heighth & bulk restriction, etc.

8. In no small effect the federal property disposal process has a negative effect on value.

9. How will the property be parceled for appraisal? This will be of primary importance to the local community in the case of an economic development conveyance involving profit sharing. Will the base be appraised in gross, in blocks of like existing use or re-use, in small parcels, etc.? How will it be broken down?

10. A common appraisal assumption is highest and best use. Highest and best use may or may not be proposed re-use.

11. The military department must recognize that property's market value is generally determined upon the assumption that a sale will be consummated on a date certain and that title will pass under normal conditions. My experience, although limited, suggest that in base closure situations neither of these assumptions apply. Again, negative impact on value.

Lastly, I would urge that the appraisal be shared with the local community. I only have experience with the Corps of Engineers, but the Corps is apparently prohibited from sharing appraisals it obtains with the community. Someone suggested to me that policy was a "sacred cow" and that prior attempts to change the policy had been unsuccessful. Well, maybe now is the time to make hamburger out of that cow. As I said earlier, we are all in this together and the success or failure in the process is dependent upon our working

together. If the military department does not share the appraisal with the local community, the local community's only alternative is to seek its own independent appraisal. Then the local community and the military department will sit down and negotiate the estimated value. Why not short circuit that process and save a lot of time and money by working together on the appraisal and then negotiating out the estimated value.

Finally, I would urge that the real estate disposal process be kick started by the DOD. Our greatest fear is that notwithstanding agreement on all elements of the disposal process that actual conveyance will be months and more likely years down the road, even in the case of the environmentally clean property. We are concerned that the disposal package will sit here in Washington on somebody's desk, or collective desks, without true appreciation of how important it is for the community to get on with the process and get the property transferred so that jobs and economic growth can be created.

Thank you for this opportunity.

1 MR. BAYER: Thank you very much.

2 Mr. Grissom?

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1 STATEMENT OF LEE GRISSOM, DIRECTOR, GOVERNOR'S OFFICE OF
2 PLANNING AND RESEARCH, STATE OF CALIFORNIA

3 MR. GRISSOM: Thank you, Mr. Chairman. As was indicated
4 earlier, I am the Director of Governor Pete Wilson's Office of
5 Planning and Research, as well as his Senior Advisor for
6 Economic Development. And within the State of California, I
7 am the designated point of contact for all base closure and
8 reuse matters. I am delighted to be with you this morning,
9 and I appreciate the invitation to appear. We appreciate also
10 the efforts of Congress, and in recent years the efforts of
11 the Department of Defense, to mitigate the burden of base
12 closure on communities.

13 As you made abundantly aware, Mr. Chairman, the State of
14 California has very definitely been impacted by the first
15 three rounds of base closures, and we are living with some
16 trepidation as to what the '95 round might hold. Thus far we
17 have had 22 major installations either closed or significantly
18 realigned. That has affected the employment of over 200,000
19 Californians directly or indirectly. It totals more than
20 74,000 acres in our State, located in virtually every
21 metropolitan area, and includes at least 10 airports, the
22 possibility of five maritime ports.

23 There is a school of economists in California that
24 suggest that, with the exception of reunified Germany,
25 California is the one parcel of land west of the former Iron

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1 Curtain most affected by the end of the Cold War. That may
2 get some argument in other States, but that does not get any
3 argument in California.

4 (Laughter.)

5 MR. GRISSOM: You know that during the 24-month period
6 that ended last winter, 18 percent of the total United States
7 job loss was in the City of Los Angeles. You know it's
8 difficult when they look upon an earthquake as an opportunity
9 for economic stimulation. Nonetheless, and we have presented
10 prepared remarks to your panel for today, I would like to
11 expand simply on two points, one of which I think you have
12 been adequately beat over the head with already today, and
13 that has to do obviously with the job center property disposal
14 procedure. We simply don't believe that it either complies
15 with the intent of the Pryor amendment or with the President's
16 five-point plan, and we would encourage you to change it.
17 Abandon it if at all possible.

18 Within California, clearly, job creation is our highest
19 priority for reuse; however, we believe it is absolutely
20 paramount that the local community be involved in all property
21 disposal actions. That is the driving philosophy behind the
22 legislation that we have put into the California legislature,
23 and we believe that advertising of expressions of intent
24 before the land use and zoning decisions have been made will
25 mislead the potential buyers and could create controversy

1 within the community.

2 Congressman Farr, I think, said quite well that the Fort
3 Ord example is an excellent example. I was out there recently
4 with Mr. Panetta when that land was conveyed. But we also
5 speak from experience on the other side of the equation.
6 Hamilton Air Force Base clearly is one of the most notorious
7 examples of base closure disasters in this Nation. Following
8 the closure of Hamilton, there were 10 years in which
9 virtually nothing happened at all. Part of that was because
10 the Air Force indicated they wanted to continue to have it
11 used as an airfield. The only thing that happened was an
12 enormous controversy rose up in the community.

13 Then, in 1985, before the enactment, obviously, of
14 today's base closure legislation and requirement of a
15 community plan, GSA bid the property out to a private
16 developer. They did not confer and meet with the citizens of
17 Marin County, one of which was a very well-known, today,
18 supervisor by the name of Barbara Boxer. That issue
19 galvanized that community, and became very, very
20 controversial.

21 The developer had based his bid upon certain
22 expectations in the primary scope. His plan, however, was
23 rejected by the city affected, the City of Novato.
24 Ultimately, the Federal Government had to refund a portion of
25 the sale price and accept a new developer, or face the

1 possibility of continuing deterioration of the property. All
2 of this could have been avoided if it had been based upon a
3 community plan.

4 So we would suggest that a community plan be prepared
5 before any expressions of interest are solicited, and
6 furthermore, we believe that the new economic benefit
7 conveyance procedure will encourage communities to become
8 partners in the marketing of the base and expediting the
9 property disposal and ultimately increasing the revenues to
10 DOD through the profit-sharing arrangement in the Pryor
11 amendment.

12 The second area, very briefly, has to do with the
13 procedures for appraising the property and determining the
14 market value. Variations in appraisal values of DOD and
15 community appraisers are very, very common and should be
16 expected in light of the absence of zoning and comparable
17 sales of base property. We have had that example in
18 Sacramento, for example, with Mather Air Force Base, where the
19 appraisals came in very, very different.

20 Where negotiated sales are involved, however, we believe
21 it's critical that both parties be satisfied with the
22 evaluation reached, and we would suggest that where widely
23 divergent evaluations exist that cannot be resolved, that both
24 parties jointly retain a third appraiser and jointly develop
25 the appraisal instructions. The third appraiser's estimate

1 would then become the fair market value. We've seen this
2 happen on a number of occasions in the private sector. No one
3 really likes it, but it works.

4 In determining the fair market value we would also ask
5 that you include all costs associated with the property. This
6 certainly includes the direct infrastructure cost for the site
7 and a fair share of the cost of base-wide infrastructure
8 utility systems and other essential upgrades, as well as toxic
9 contamination.

10 I appreciate the opportunity to present these comments.
11 I look forward to reviewing your Final Rule.

12 We think it is very, very important that during this
13 time of closing installations, while it provides a unique
14 opportunity for both the Federal Government and the local
15 governments involved, there are also some very unique
16 problems. Bringing all this property into market at the same
17 time obviously dilutes the market. Office space that was
18 selling in 1990 in San Diego for \$130 a square foot you can
19 buy today for \$59.10 a square foot. There is no development
20 going on where people can buy in the market for 60 cents what
21 it would cost them a dollar to build.

22 And then in acquiring these properties, obviously, there
23 are some other problems, things having to do with the fact
24 that some of them are very old. Many of the properties,
25 buildings, homes, don't meet local codes or State codes. And

1 then, of course, as I said before, the toxics issue.

2 In many cases, we believe these opportunities are very
3 special, and we look forward to working with you on this, and
4 again, on behalf of Governor Pete Wilson, I would like to
5 thank you for the opportunity to present these views.

6 [The prepared statement of Mr. Grissom follows:]

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TESTIMONY OF LEE A. GRISSOM
REPRESENTING CALIFORNIA GOVERNOR PETE WILSON
DOD INTERIM FINAL RULE, PRYOR AMENDMENT
AUGUST 6, 1994

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Lay in #2

Mr. Bayer and panel members, my name is Lee Grissom. I am Director of Governor Pete Wilson's Office of Planning and Research, as well as his Senior Advisor for Economic Development and the designated point of contact within California state government for base closure and reuse matters. It is a pleasure to be here today to offer our perspective on the interim final rule to implement the "Pryor Amendment" adopted as part of last year's National Defense Authorization Act.

We appreciate the efforts made in Congress in recent years to mitigate the burden of base closures on communities, and the positive response of DoD to implement these legislative changes. This is a particularly important matter in California, where we are faced with the closure or realignment of 22 major bases, the most by far of any state. Incidentally, the closure of these installations will affect the employment of 200,000 Californians, directly or indirectly.

Although DoD has made an effort to fairly implement the Pryor Amendment through its Interim Rule, there are a number of areas where we believe revisions should be made. A copy of our detailed comments has been made available to you. This morning, I would like to expand upon two key recommendations.

First, we object to the new procedure for "Jobs Centered Property Disposal." The procedure outlined in the Rule does not respond to any provisions of the Pryor Amendment. Although it is well intentioned, it is misdirected and should either be eliminated altogether or revised substantially.

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We certainly don't object to job creation -- that's our highest priority for base reuse. However, it is critical that the local planning process be given paramount consideration in all property disposal actions. Advertising for expressions of interest before land use and zoning decisions are made will simply mislead potential buyers and create controversy in the community.

I speak of this from experience, because this is essentially what happened at Hamilton Air Force Base in California, one of the most notorious examples of base closure disasters in the nation. Following the closure of Hamilton and transfer of a portion of the property to the Army, GSA offered the remainder of the property for sale to the highest bidder. That was 1985, before enactment of today's base closure legislation and its requirement for a community plan. Consequently, the environmentally sensitive communities of Marin County were not consulted.

The developer based his bid on certain expectations of project scope. His plan was, however, rejected by the City of Novato. Ultimately, the Government had to refund a portion of the sale price and accept a new developer, or face the possibility of continuing deterioration of the property. All of this could have been avoided if the sale had been based upon a community plan.

Therefore, we suggest that the community plan be prepared before any expressions of interest are solicited. Furthermore, we believe that the new economic benefit conveyance procedure will encourage communities to become partners in base marketing, thereby expediting property disposal and ultimately increasing revenues to DoD through the "profit sharing" arrangement of the Pryor Amendment and Interim Rule.

The second area I would like to address are the procedures for appraising

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property and determining fair market value. Variations in appraisal values by DoD and community appraisers are common and should be expected in light of the absence of zoning and comparative sales of base property. Where negotiated sales are involved, however, it is critical that both parties be satisfied with the valuation reached. We suggest, therefore, that, where widely divergent valuations exist and cannot be resolved, both parties jointly retain a third appraiser and jointly develop the appraisal instructions. The third appraiser's estimate would then become the "fair market value."

In determining the "fair market value" sale price, however, we believe it is critical to include all costs associated with making the property salable. This includes direct infrastructure costs for the site and a fair share of the cost of basewide infrastructure, utility systems, and other essential upgrades. The devaluation of the property due to the stigma of toxic contamination and other hazards should also be recognized.

I hope these comments are helpful to you in your deliberations over this Rule. I look forward to reviewing the your Final Rule. On behalf of Governor Pete Wilson, thank you for this opportunity to present our views.

1 MR. BAYER: Thank you very much. I appreciate your
2 comments. Are there questions from the panel, or perhaps, are
3 there some other observations that you might have, after
4 hearing from one another?

5 MR. KLEIMAN: I have a question. One of the
6 disadvantages of sitting at the end of the table is the
7 failure to be recognized. Three tables ago, I had this
8 question, but we have been moving along quite nicely. This is
9 more of a process question, I think, and it is probably better
10 that I read it, to ask it, and set aside some others.

11 But we have obviously heard some conflicting views.
12 There is general consensus on many issues, but there are some
13 conflicting notions here, of appraisals being one; and when
14 they are done, certain types of conveyances and profit-sharing
15 formulas, and whether there should be any or not.

16 But in terms of the process, if we were to look at a
17 process that had some sort of -- well, no one has talked about
18 screening of property, the Federal screening, and whether that
19 is an encumbrance or not.

20 But assuming, and I certainly would like your comment on
21 that, but assuming that we laid everything out and communities
22 went in and did their reuse planning; and assuming that also,
23 I have heard that reuse plans could be accomplished at 12 or
24 18 months: What kinds of, are there any incentives that could
25 be built into this process that would help achieve this common

1 objective of coming to some Local resolution of all competing
2 needs, whether they be Federal, State, Local or McKinney,
3 within an 18-month to 20-month timeframe?

4 Number one: Is it doable? Then, even if it took
5 longer, what kind of incentives might there be built into this
6 process to achieve that result? Or likewise, if we came to,
7 ideally, we have talked about consensus and inclusion.
8 Clearly, there are examples where we are not going to achieve
9 that, or haven't been able to achieve that as clearly as we
10 would like in every instance.

11 What proviso might there be, when we come to the end of
12 the line, to ensure that we do not allow situations where
13 communities continue to bicker, and we cannot move forward
14 with redevelopment?

15 MR. SCHLOSSBERG: You are quite right. I didn't hear
16 anybody mention screening, either. I know that this is
17 probably not the forum to talk about the McKinney Act
18 legislation, but it is a symptomatic problem and that is,
19 there is balancing that needs to be done. There is balancing
20 among Federal interests, between Federal entities, and in many
21 cases the communities are caught between two Federal users
22 that would like to pick up their property before it is
23 declared surplus.

24 In some cases, you have a community reuse plan that has
25 identified a parcel of property that might be the anchor

1 tenant on their reuse, and there is a Federal user. The Army
2 Reserve has identified that parcel, in some cases. There are
3 several bases where that has happened.

4 Then, there is the McKinney Act. The tiering system, I
5 think, does a disservice, and destroys the utility of the
6 community reuse plan. And, happily, the Department has put on
7 hold several of the Federal claimants until the completion of
8 the reuse plan, in an effort to balance communities against
9 the Federal reuse. And under the legislation that was passed,
10 enacted by the House recently, that would allow again the
11 balancing of McKinney Act uses.

12 I think that having a single balancing entity, or having
13 a single process that allows the balancing of all competing
14 interests to take place, is desirable. And, to the extent I
15 would have a vote -- and I have none -- I would say it is the
16 reuse plan. Because, after all the Federal entities are gone,
17 only the community will be there.

18 MR. MARTIN: Steve, I would recommend that you start
19 with an \$18 million baseline; and if the community gets their
20 plan done in 1 months, they get the \$17 million that's left
21 over. And each month that ticks off, the incentive pot
22 declines.

23 Seriously though, I think the situation that George
24 mentioned clearly indicates that you cannot legislate
25 community consensus from here. There has been a long

1 struggle, and a lot of litigation. The State of California
2 has an initiative which DOD might encourage the other States
3 to consider. It's basically, if the community cannot get
4 together, the Governor is going to decide who is going to be
5 the plan that is going to prevail, and who the Defense
6 Department ought to talk to, to determine at the State level;
7 and that might work, to break the log jam on some of these
8 situations.

9 MR. WAGNER: Mr. Schlossberg, I have a question.

10 MR. GRISSOM: I simply wanted to respond to Mr. Martin's
11 comment that the Federal Government obviously wants to work
12 with one identified Local unit. And in California, some of
13 these are within one municipality, and some are variously
14 spread about.

15 Fort Ord was surrounded by a number of them, and we have
16 a very strong State Senator that put together a proposal for
17 that specific parcel. We have, nonetheless, come up with
18 additional legislation which is now moving through the
19 Legislature and will be finished in the beginning of
20 September, which basically sets that process into effect.

21 MR. WAGNER: When you were speaking of the interim lease
22 situation, you made the statement at the end about the service
23 ultimately the property back to dispose of it. I assume that
24 was after it was clean.

25 Should we not, rather, be looking at these interim

1 leases more as a bridge to get to an ultimate disposal? If we
2 do lease it, let's say even to the Local community, that we're
3 tying the lease when the property is clean. Then it kicks in
4 some type of conveyance in there, whether it be a public
5 conveyance for, say, an airport, or an economic development
6 conveyance or an educational conveyance; as opposed to some
7 temporary use out there.

8 MR. SCHLOSSBERG: Ultimately, yes, that would be ideal.
9 However, there may be some instances where the base is closing
10 and you have a potential use for the property; but there is no
11 reuse plan. And it may be that the community would be more
12 than willing and happy to have an employer to employ the
13 people who might otherwise be out of work, while they spend
14 the year to put together the reuse plan. Ultimately, that
15 property may wind up as a park; or it may be cleared; or, even
16 if it is part of an airport conveyance, it may be a hangar
17 where you need to put your new taxiways.

18 Well, that process takes a long time; especially in an
19 airport master plan. And it may be -- I know Mike Durgin went
20 through those at Chase Naval Air Station. Ultimately, what
21 happens at Chase may require the demolition of some of those
22 buildings that today have tenants in them, employing the
23 former workers.

24 CAPT. DURGIN: The concept of a balancing act of a
25 mechanism for that: Do you believe that, that can be done

1 through a rewriting of the implementing rules in Title XXIX?
2 Or do you believe that, that will require substantial
3 legislative changes to the present existing CFR's property
4 acts and legislation that goes to the Federal screening and
5 McKinney Act?

6 And if the answer to that is the second, then what
7 momentum do you believe there is sentiment, if any, in
8 Congress, to make those kinds of changes?

9 MR. SCHLOSSBERG: I have always advocated that the
10 Executive Branch has a lot more responsibility than it has
11 taken in the past.

12 I believe that the Pryor Amendment, and that the exact
13 language of the statute and exact legislative history of the
14 statute would allow the Department to do a lot more for
15 economic development than it has done. I believe the
16 Department will be subject to criticism. There will be those
17 who will accuse the Department of giving away taxpayer assets
18 to communities.

19 And I think, on balance, that the American public would
20 understand those decisions, if the Department were to step up
21 there and say, "These are the people who are losing their jobs
22 as a result of us winning the Cold War, and we are going to do
23 everything we can to help them, including giving them the
24 property at the bases." I think the statute allows that,
25 and I urge you to adopt it. I realize that requires junking a

1 whole lot of the methodology that is in the rules; but I think
2 that methodology gets back to the balancing I talked about.

3 The Department is not a real estate developer who is
4 trying to maximize the value of the property. I submit that
5 it is good government, to maximize the job production there;
6 and that may be best done by removing some of the strings.

7 MR. MARCUS: I think I would like to thank George
8 Schlossberg, for mentioning personal property. Mike had asked
9 the question about balancing, and I have a question along the
10 same lines.

11 Normally, when dealing with competing interests in
12 rule-making -- normally, when dealing with competing interests
13 in rule-making, you try to strike a balance between these
14 interests. I think we intentionally broke that normal
15 process, in developing the personal property section, by
16 tilting in favor of the community. At least, that is what we
17 attempted to do. I take it you think that we have been a bit
18 timid, and haven't gone far enough.

19 One of the things we want to be careful about is going
20 so far as to, maybe, having some harmful effect on the
21 readiness of the military organizations that will be leaving
22 the base and who want to take some of the equipment with them.
23 Can you give us some thoughts on how we can deal with this
24 issue of protecting the readiness of the military
25 organizations, while still taking care of the communities?

1 MR. SCHLOSSBERG: I will talk to that. Taking the
2 personal property of the unit that is relocating, I don't
3 think that there was much debate about that. At least, I
4 didn't see much debate about that in any of the comments.

5 But on a unit that is being disestablished and the
6 personal property is no longer needed for the readiness of
7 that unit, it is my understanding that other units, other
8 military Departments, other forces within the command, have
9 the opportunity under the rules to pick over that, to fill
10 their own shortfalls. You are right; it is a balancing
11 question.

12 But I don't think that anybody had said that the
13 relocating units should not be able to take all of their
14 operational spares, parts. It's not the operational stuff; it
15 is that which is going to be redistributed and disposed of
16 elsewhere within the Department, or elsewhere outside of the
17 Department, that I think is of most use to the community.

18 MR. MARCUS: Thank you.

19 MR. BAYER: Let me ask a question about NAID's
20 recommendation about valuing the property as is, rather than
21 taking into account any potential reuse.

22 It strikes me that there is a bit of a tension, in that
23 we have heard a lot about the primacy of the Local
24 redevelopment plan, and how that should control how the
25 property is ultimately disposed of. I think we have been

1 trying to do that, with some exceptions.

2 Maybe the terms we use, like "consultation," aren't
3 strong enough. But I think that notion was certainly there.
4 To the extent that a redevelopment plan moves forward in
5 defining reuse, it strikes me that you are already moving
6 toward creating some value in that property.

7 You are not de-zoning yet; but you clearly do not have a
8 blank sheet of paper, either, in terms of the use of the
9 property. You have already been able to apply some of the
10 environmental constraints; you have done some market analysis
11 that puts a template of reality on what otherwise might be a
12 community wishlist.

13 So if, in fact, all of that work is done and you,
14 rightly, want that document to be robust and to actually
15 control the ultimate reuse of the property, then why is it not
16 reasonable to use that data and the expectations that that
17 plan will be followed, as one part of the evaluation
18 instructions? Rather than simply saying, "Well, it is as is,
19 where is," with no reference at all to any of the information
20 that would come through a good reuse plan..

21 MR. MARTIN: Mr. Bayer, I would say that the speculative
22 aspects of plans that Mr. Grissom talked about are what we
23 face out there each day. In other words, at our base and in
24 the rural, relatively small community, we have in mind on one
25 day doing a certain thing with a certain portion of the base;

1 and then an opportunity that we hadn't thought of comes along
2 that may represent a much better use and a much more
3 beneficial use for the community. And we would change our
4 mind, and change the plan.

5 That was not foreseen when the plan was drawn up. The
6 plan is a snapshot of a point in time, as to what a
7 community's vision might be. And it's going to change. It is
8 going to be market-driven, with regard to what might happen 2,
9 3, or 4 years from now. Plans are going to change.

10 MS. ENGLISH: I totally agree.

11 MR. BOESE: And I don't think that plan will take into
12 consideration the incentives, the entitlements, and the
13 abatements that may be required to get that employer to locate
14 on that base, whether it is in a rural area or in an urban
15 area, without taking those things into consideration. You are
16 going to come up with an inequitable apportionment of value or
17 costs that are being borne for the Local people.

18 MR. BAYER: Well, I can certainly understand why it
19 would be very difficult for an evaluator or an appraiser to be
20 able to estimate incentives that you might have to use. But
21 if you have defined certain uses, it doesn't seem to be that
22 awfully difficult for a skilled appraiser to discount the
23 infrastructure requirements that are needed in order to
24 realize that use.

25 MS. ENGLISH: But would that appraiser have access to

1 the Local community's information, always? I think about,
2 many times a company that moves out of the building and leaves
3 the community, and leaves the building which would employ 200
4 people. But an appraiser that comes in to look at that
5 building doesn't have a clue about what the future use of that
6 building could possibly be, and is.

7 Now, maybe those buildings have ceilings that aren't
8 high enough; or an infrastructure that isn't quite right;
9 floors that don't meet the requirements of the next company
10 coming in. So there are a lot of improvements that might have
11 to be made in that building, in order for it to have value.

12 I can tell you for a fact that, in Arkansas, we had a
13 builder who built a beautiful building: Baxter Travenol. It
14 was in the middle of nowhere. They didn't finish it. And
15 they put a price of \$10 million on it. It's been out there
16 for 10 years. Then somebody came along and bought it, for
17 \$250,000. That was the value.

18 But initially, the real estate appraisal and the price that
19 they wanted to charge for that building was \$10 million.

20 You know, there is a real world. And nothing is worth,
21 there is no price unless somebody is willing to pay it. That is
22 what establishes the market price for it. So we can put all
23 of these values on it that we want to. But if there is no
24 market for it, how do you determine what the value is?

25 Regardless of whether you have to put the infrastructure

1 in; and most of these places really have a lot of it. I mean,
2 the State is trying to figure out how are we going to put the
3 resources into one Air Force Base in our State that is going
4 to require, just to get some jobs in there? And nobody's even
5 bought it or leased it yet.

6 So it is going to cost us a lot of money; not
7 necessarily the communities, because the communities don't
8 have any money. They don't have those resources.

9 MR. KLEIMAN: Bob, may I follow up on that?

10 MR. BAYER: Of course.

11 MR. KLEIMAN: Assuming that what you say is true, you
12 are asking the Department of Defense to rely on that Local
13 redevelopment plan, in order to do a number of other things,
14 such as: Identify what personal property is going to remain
15 the basis for your economic development conveyance, should you
16 request one. And we are then relying on that with some level
17 of certainty, in order to make some very, very important and
18 very critical decisions.

19 But yet that same logic, you are saying, would not hold
20 true in trying to identify some appraised value at that
21 particular point in time.

22 I don't see this; there seems to be an inconsistency
23 there. Can you amplify on that?

24 MS. ENGLISH: I think you cannot plan forever. I guess
25 one of the things I look at is, initially, when we thought

1 that there was a possibility that an Air Force Base was going
2 to close, and we saw some tremendous possibilities there,
3 there were some pie-in-the-sky type things, and there was a
4 huge possibility for all kinds of jobs and things like that.
5 That soon began to dissipate, as you began to look at the real
6 world.

7 Now that was 5 years ago, that event. So the real world
8 all of a sudden intervened. And what we looked at and thought
9 about was a wonderful idea, ut it may or may not ever come to
10 fruition.

11 The communities may still be working, 3 or 4 years down-
12 the road, at trying to get some educational institution in
13 there; so they may still need those tables, desks, and all of
14 that personal property, if that is basically their ultimate
15 goal.

16 But there is no guarantee out there for any of us.
17 There are no guarantees that anything is going to happen 5
18 years from now, or even next year. It is a lot of wishful
19 thinking, on both sides. So I am not sure.

20 I think that there is, probably, an overall concept that
21 people have; and wish, obviously, if they are going to look at
22 airports, then they'll need fire trucks and the kinds of
23 equipment to fix airplanes, and things like that, whatever is
24 necessary. And if that looks like the only thing in the next
25 10 years, then maybe it's reasonable.

1 There may be some other pieces of equipment that are
2 kind of questionable. But some things are going to fall into
3 a logical situation. I mean, how many opportunities are there
4 really out there? Let's be real.

5 MR. BAYER: Are there other questions?

6 (No response.)

7 MR. BAUR: Yes.

8 MR. BAYER: Go on, Doug.

9 MR. BAUR: I have this question. Many of the speakers
10 today, and many of the written comments we have gotten, have
11 urged these longer-term partnerships, joint ventures, various
12 things in which DOD would be partner with communities for a
13 substantial amount of time, until the property got sold off.

14 And I'd like to ask you how we could and should deal
15 with the situation which is relatively common, when we
16 actually get to talk to the individual representatives and
17 negotiators from communities? And that is that, either
18 because of their budget problems or their own State statutes
19 or constitutional provisions, they aren't prepared to finance
20 a development program very much at all.

21 You know, you're talking about a partnership, but the
22 reuses area seems to bring very little to the table, to
23 support that partnership and to carry out their end of it; and
24 oftentimes, their only solution is, "Well, we'll take your
25 property, sell it off, and use some of that money to help us

1 develop it." We wonder, if you are going to do that, why
2 wouldn't letting the free marketplace work, turn about the
3 same or maybe even more efficiently?

4 Can anybody kind of speak to that, with any help for us,
5 really?

6 MS. ENGLISH: As two State agency people, we can tell
7 you that it's money.

8 MR. GRISSOM: I think I could expand on that, just a
9 little bit. That certainly is the case in California; and it
10 certainly is the case in virtually every community that has
11 been affected by the closures. We have been trying, in
12 various ways, legislation and others, to bring additional
13 resources to those folks in those communities; including
14 allowing them to have redevelopment authorities on them, or
15 locating the free trade or foreign trade zones on them. But
16 in terms of financial resources, there virtually isn't
17 anything.

18 Virtually every community is faced with the same thing.
19 And if anything, it is compounded because this major economic
20 entity that was serving their community is now leaving.

21 There is an old saying in Hollywood that, after a person
22 dies, his hair and fingernails continue to grow for 3 days,
23 but the telephone calls taper off.

24 (Laughter.)

25 MR. GRISSOM: When these facilities are closed, the

1 problems are going to continue to be there for a long time;
2 and their resources are not there.

3 MS. ENGLISH: There's another thing that you and I
4 talked about at one time, Bob. The reality is, it is not just
5 the Defense Department that is downsizing and cutting back.
6 You've got the private sector, which is downsizing and cutting
7 back.

8 So, not only are communities trying to deal with, "What
9 are we going to do with this massive installation?" But
10 you've also got a Teledyne, or a United Technologies, or
11 whatever, that is closing facilities all over the United
12 States; so you are compounding with the private sector and the
13 public sector. Most of these communities are trying to figure
14 out: "How am I going to upgrade the sewer and water system,
15 because I've got a court order now that is requiring me to do
16 so?" These are really basic, real problems, and they don't
17 have the resources to take on an additional, or the financial
18 capability, let alone to set up a marketing program and some
19 of those kinds of things that need to be done.

20 MR. BAYER: Yet, in a very real way, that is what you
21 are proposing, by transferring virtually all control of the
22 redevelopment of these installation to the community. Coming
23 with that are all of the expenses and liabilities of that.

24 MS. ENGLISH: You are exactly right; and I think, in
25 many cases, some communities are not going to be prepared to

1 take that on. They are not going to have the financial
2 capability to do so.

3 But we see, it seems to make sense to me, that the
4 Government would be behind us and backing us on that project.
5 We have been together, in our case, for 90 years. Another 10
6 or 20 seems to make some sense, because we are going to be,
7 hopefully, creating jobs. That is good for the Federal
8 Government, as well as the Local Government.

9 I think we have to have a degree of willingness to go
10 ahead in partnership, as we proceed to solve this problem. It
11 can be worked out, to our mutual best interests; or it can be
12 a nightmare for both of us. And, if we work together, it
13 should have some prospect of success.

14 MR. GRISSOM: And just remember that, in the vast
15 majority of these localities, they would really prefer that
16 you stay and not leave. So, 10 and 20 years, to me, seems to
17 be a continuation of a relationship that has worked quite well
18 to this point.

19 MR. SCHLOSSBERG: I think it is a partnership of
20 convenience. I don't think there is any suggestion that it is
21 the ideal partnership. But if the Department were not to give
22 it to the communities, and work through the communities as a
23 partnership, that doesn't mean that the community is not
24 there. You're just going to go to the private sector and say,
25 "We'll sell it to you instead." Because then, the private

1 sector has to go to the communities; because the zoning, the
2 entitlements, the water, the utilities, only the community can
3 give that. So they are at the table, whether the Department
4 of Defense and the community are the only two entities that
5 will be at the table. No. I submit that you are right. I
6 mean, money; somebody has to bring the money to the table.
7 And the Department is bringing the land, and the community is
8 going to bring the zoning, entitlements, and the
9 infrastructure approvals and the regulatory approvals. But
10 ultimately, in order to consummate the deal and make it
11 successful, somebody has to come and want to use it, and be
12 willing to pay for it, be willing to put money into the
13 ground.

14 I think all three are necessary.

15 MR. BAUR: Well then, do you think that our tests, if
16 you will, of a plan, one that we should engage with, ought to
17 have a fairly high standard to demonstrate that there is a
18 financial plan? Whether it is through private development, or
19 some kind of tax revenues that will not start coming for a
20 period of time, or bonding, something or other. Is that a
21 fair thing for us to ask, before we're willing to go into that
22 partnership? Rather than that it appear to be a partnership,
23 in several cases where there is no prospect of a financier
24 coming along?

25 MR. SCHLOSSBERG: I think it would be fair to summarize

1 the testimony here as that, that's not a necessary thing that
2 should be added to the testing of the property. I think the
3 testing of the property should not occur.

4 MR. BAUR: I wasn't referring, really, to testing.
5 Let's forget the whole market test business, for a minute.

6 Economic development conveyance. Let's say that
7 Community X proposes one to us; but all they show is a
8 strapped community, financially, and no apparent ability to
9 market, develop, et cetera. And all we would do is leave the
10 land lying fallow, and perhaps carry a high maintenance cost
11 for a lot of years, with not really any plan shown to show us
12 how development might occur, and we're financing what we've
13 brought in; and what the community could do to bring the plan
14 to some near-term success.

15 MS. ENGLISH: One of the things that I think has
16 happened, and Mike Durgin is quite familiar with this, but
17 probably one of the things I see that has turned into one of
18 the best partnerships, is Chase Field.

19 And granted, what you've got there is a community that
20 got its act together, hired a good person. The market,
21 because the State came in and wanted to put in a prison
22 system, was there; so you had a lot of components that came in
23 together: Some housing, and when there's a shortage of
24 housing; and a willingness, kind of, from the Navy's side, to
25 be able to let the community take some of those resources that

1 were coming back off of rent and things like that, and leasing
2 them, so that they have the money to put into a kitty to begin
3 to do some of the things that are necessary.

4 I mean, if you don't have a tenant, how are you going to
5 have any lease payments coming in? But if you've got some
6 lease payments coming in and you have to give it all away --
7 but if you can put it in a kitty, and you can start taking
8 care of, and you can begin to do the marketing and upgrade the
9 sewer system, and you have the financial strength to be able
10 to do a revenue bond issue, some of those kinds of things,
11 then there are some things coming together.

12 It is kind of like going to the bank. And if you don't
13 have any, you can always get it if you don't need it.

14 But there isn't going to be a one time, or one way, to
15 do every one of these things. But there was, I think, and
16 probably I am sure there are other good examples, but a very
17 good example of the military and the Government in the
18 community working together. And they are off the hook now.
19 You know, we are not still worrying about, "Are we going to
20 have to pay for it, or not?"

21 MR. BAUR: Thank you.

22 MR. SCHLOSSBERG: I will answer yes, at the risk of
23 being shot on the way out. Would it be fair for the
24 Department, in reviewing a community redevelopment or an
25 economic development plan, to see whether it was financial

1 feasible? I think yes; I think it would be fair.

2 CAPT. DURGIN: I would like to ask one question, to sort
3 of act a little bit as the devil's advocate now. In all of
4 these mechanisms that we are talking about, and keeping in
5 mind that things change, or that things are different in
6 different areas, that we have heard all of these different,
7 conflicting views, I think this a little bit speaks to what
8 Steve was getting at. Would any of you be concerned, as
9 private citizens, if you observed in another area that
10 property that had been conveyed for very little money -- I
11 don't know exactly what that would be -- 5 or 6 years later, it
12 was resold or somehow brought to the market for substantially
13 higher sums of money.

14 Would that not cause you some consternation, that
15 perhaps, DOD or the Government had not been good stewards?
16 You know, in the downsizing and the values, et cetera, that
17 somehow the process had broken down and we weren't doing our
18 job, and the inspectors were going to come in and take a look
19 and see why this was occurring? How do you answer that kind
20 of question, I guess is what I'm getting to? I mean, I think
21 everyone here wants to do the right thing. But there are
22 other issues that need to get addressed. And I think that is
23 part of what the struggle is.

24 MR. SCHLOSSBERG: Mike, I think there is a difference
25 between putting a mechanism like an excess profits clause in a

1 transaction, and milking it as a real estate transaction up
2 front.

3 GSA has been doing it, the Department has been doing it,
4 all of the conveyances now -- I don't know whether it is 3 or
5 5 years -- have the excess profits clause in there; and there
6 is the whole concept that the Department has from the old
7 renegotiation board. There are ways to protect against those,
8 without necessarily trying to maximize profits at the
9 beginning.

10 I don't think that is a fine line. I think there is a
11 big difference between that. And I think one is appropriate.
12 I think you are right, that the Department should protect
13 itself against a community that makes a solemn promise to use
14 it as a park, and then sells it to somebody. But that is
15 different than going into an economic development conveyance,
16 and try to force a sale on the community.

17 MR. BAYER: Well, thank you very much. I appreciate it,
18 as you represent not only a number of important communities
19 and constituencies, but also NAID. And we appreciate your
20 input.

21 We have one more panel of six individuals.

22 (Pause.)

23 GROUP 5

24 MR. BAYER: We are going to get started, because time is
25 running out and people are already running into airline

1 problems, not to mention lunch. I would like to introduce our
2 last panel, and then we will get started forthwith. I think,
3 if you can maintain discipline in your comments, we will try
4 to maintain our discipline in dialogue.

5 All of these panelists signed up today, and we are
6 pleased that you came and have done so; and particularly, we
7 didn't have anybody who wanted to speak, who didn't have the
8 opportunity to. I am particularly gratified of that.

9 Mr. Al Eisenberg, Senior Director for Legislative
10 Affairs of the American Institute of Architects, and also, my
11 County Commissioner. We are glad to have you.

12 Matthew Carlson is the Associate Executive Director for
13 the Glenview Naval Air Station Reuse Task Force, and we are
14 glad to have you, Matthew.

15 Barry Cromartie -- is that correct? -- Project Planner
16 for the City of Oakland, an important and heavily impacted
17 community both from the point of view of what's happening
18 within their jurisdiction and also in the larger area.

19 Mayor Ann McNamara, from the Borough of Tinton Falls,
20 New Jersey, at Fort Monmouth.

21 And finally, former Congressman Bill Lowery, who is
22 working a number of reuse issues, and we welcome you, Bill.

23 What I am going to do is, based upon the airline
24 problems people have, I'm going to ask Mr. Lowery to speak;
25 and then Mr. Carlson; and then after that, if people have

1 difficulties, please let me know. Go ahead, Bill.

2 Oh, I am sorry. I have forgotten, we have one other
3 person. There he is, on the end: Mr. James Raffel, National
4 Commission for Economic Conversion and Disarmament. We are
5 glad to have you.

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1 STATEMENT OF WILLIAM LOWERY, COPELAND, HATFIELD & LOWERY

2 MR. LOWERY: Thank you very much, Mr. Chairman. I was
3 not intending to speak, but I wanted to make just a couple of
4 observations because I have seen this thing from both sides,
5 both as a member of San Diego City Council in the late
6 seventies, when we were dealing with a major land use question
7 with the Balboa Naval Hospital, a very expensive land use
8 decision; and then, for the last 8 years, a member of the
9 MILCON Appropriations Subcommittee, and the last 6 as the
10 Ranking Member on that committee.

11 On this whole question of bases and of value, I remember
12 back when we were looking at establishing the BRAC process in
13 the 91, 93 and 95 rounds; and DOD coming over and testifying
14 that if Military Construction Appropriations would just
15 provide two, \$250 million of appropriate funds for a total of
16 half a billion, that no other appropriated funds would be
17 needed; because from there on out, we will sell off properties
18 and gain the revenues from those to put into our realigned
19 facilities.

20 Well, here we are, some \$8 billion later; an
21 overestimate of the value by some 1600 percent, of bases. Now
22 granted, it was early on in the process, and we didn't have a
23 great handle on it. But there's been consistently, I think,
24 an overestimate of what these properties are worth.

25 Let me just make a couple of observations, and some

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1 general rules. First, I do not think DOD does particularly
2 well land use or economic development. And secondly, there is
3 a clash of objectives here.

4 The Department of Defense, and rightfully so, needs cash
5 to put into the realigned facilities. The communities, on the
6 other hand, with identities so tied up in these facilities, so
7 much of their economic well-being wrapped up in military
8 bases, have been devastated. Bob, as you pointed out, their
9 identity is there, back in April at Tyson's Corner, the first
10 outreach seminar.

11 So they are looking for jobs; and they are looking to
12 put together a land use plan and all of the political
13 machinations that go into that, in dealing with community
14 groups and constituencies in putting those plans together.

15 And so, basically, this clash of approach of culture, of
16 perspective, is there. And I know we are kind of muddling our
17 way through it, trying to assign what is the value of those
18 assets. DOD traditionally has not had to deal with Local land
19 use decisions in this context; we have been exempted, by
20 sovereign immunity, from dealing with Local communities
21 through all of these years.

22 But now, once the bases get closed, and whoever is going
23 to take over those bases -- whether you sell the property to
24 them directly, or work through communities' redevelopment
25 authorities -- ultimately it's going to have to be consistent

1 with whatever land use plan the communities come up with. So,
2 anyone who will take that property prior to a land use plan in
3 place is going to be speculative, at best.

4 It strikes me, with the direction Congress is moving in
5 now with McKinney, of moving toward having that screening take
6 place at the end of the process, is what should take place
7 here: Allow the communities to work up a plan; and if the
8 property is going to be sold off then, do it so that all
9 speculation is taken out, or as much as possible.

10 In San Diego, we did this. 1,200 acres at Miramar
11 Naval Air Station, back in the late eighties, were severed by
12 a State highway. The Navy, with the community, planned so
13 that that land was not raw and its value to attribute to and
14 accrue to speculators, but that it would go to the highest and
15 best use of maximum value for the military, as well as for the
16 community to do it in a normal planning process.

17 The recommendation I would make to you: Shift it. From
18 this economic, with the selling at the front end; to after a
19 community plan is in place. This is the same direction
20 Congress is moving in.

21 MR. BAYER: Thank you very much. Mr. Carlson?
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1 STATEMENT OF MATTHEW CARLSON, ASSISTANT EXECUTIVE
2 DIRECTOR, GLENVIEW NAVAL AIR STATION REUSE TASK FORCE

3 MR. CARLSON: Thank you very much for the opportunity.
4 Capt. Durgin asked a question toward the end of the last
5 panel, about stewardship and protecting taxpayer interests.
6 It is a very important question, and I am glad you asked it
7 because I had some notes that I wanted to share with you on
8 that very topic.

9 I am a Federal taxpayer, so I am concerned about the
10 appearance of disposing of these properties, as I am sure that
11 is a very difficult issue that you have dealt with. But there
12 are some things that all Federal taxpayers haven't put up
13 with, that residents in base closure communities have.

14 And I'd like to share with you some examples that are
15 specific to Glenview; but every base closure community could
16 probably say similar things:

17 The first thing that a Federal taxpayer hasn't put up
18 with is the loss of a job from a base closure. When you're
19 unemployed, it's 100 percent unemployment. It doesn't matter
20 what the numbers are, in terms of relative unemployment.

21 The second thing all the Federal taxpayer have not put
22 up with is, in our case, where Glenview Naval Air Station is
23 an airport operation, all Federal taxpayers haven't put up
24 with airport operations, including the trauma of crashes in
25 residential neighborhoods.

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1 All Federal taxpayers have not put up with loss of tax
2 revenues and development opportunities, since the property was
3 condemned in the mid-1930's. And all Federal taxpayers have
4 not put up with subsidizing the cost of providing services to
5 the base personnel.

6 The spreadsheet that I handed out compares the cost of
7 providing education subsidies to the families of the Navy
8 personnel that are staying in Glenview. I want you to
9 understand that I am not whining about providing these costs,
10 or providing these subsidies. We accept that responsibility
11 wholeheartedly. The reason I bring it up is to illustrate the
12 impact of development in a community.

13 There are loss leaders and there are properties that
14 develop net revenues to help you offset some of these costs of
15 providing services. And that is the way we look at the
16 Glenview Naval Air Station.

17 We look at it as a development opportunity that will
18 help us offset some of the service provision costs, including
19 the annual cost of \$3.6 million to educate the students of
20 Navy families.

21 There is another huge item that hasn't been touched on
22 earlier, and that is the cost for infrastructure. We have
23 estimated that it will cost about \$70 million to provide the
24 infrastructure to help redevelop this property. Those are
25 realities, in the development market.

1 The last thing that other Federal taxpayers don't have
2 to put up with is the fact that they will not have to live
3 with the results of the redevelopment on this property. The
4 Local communities will. So, for the Local communities, these
5 issues are of the utmost importance. Nothing could be more
6 serious.

7 I would like to shift gears and speak to one more point,
8 regarding personal property and determining value at the
9 bases. It is our opinion that we should give more latitude to
10 the Local service arms, to be fair in determining the value of
11 bases, and in disposing of personal property.

12 We need to recognize that each base is different. There
13 are different opportunities, and different constraints, at
14 each facility.

15 Thank you very much for the opportunity.

16 MR. BAYER: Thank you very much. Glad to have you here.
17 Mayor McNamara?

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1 STATEMENT OF ANN McNAMARA, MAYOR, BOROUGH OF TINTON
2 FALLS, NEW JERSEY; FORT MONMOUTH

3 MAYOR McNAMARA: Thank you, Mr. Secretary; and thank
4 you, panelists, for going without lunch for so long and
5 allowing me to speak.

6 I am Mayor of a municipality in the State of New Jersey,
7 which is home to large parts of Fort Monmouth. And I want to
8 thank you at the outset for your creation of the Office of
9 Base Transition Coordinating Person. The creation of that
10 job, and the input that I have had from the man who holds that
11 position, has been invaluable. It was a very successful and a
12 very good idea.

13 I am here to ask for a waiver for McKinney. The Borough
14 of Tinton Falls has a very unique position in this whole BRAC
15 process.

16 We will lose, or we will be losing, our largest
17 taxpayer, with the movement out of the SEACOM Office Building.
18 The SEACOM Office Building has 650,000 square feet of office
19 space, the largest office building in the county, and one of
20 the largest in the State of New Jersey. The personnel will be
21 moving on to the main post at Fort Monmouth.

22 We will lose, now, an annual real estate of \$700,000.
23 We also, in Tinton Falls, educate, happily, the children from
24 the Naval Weapons Station at Earl, and the children from Fort
25 Monmouth in our elementary schools and in our high school.

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1 This has been a very positive experience for the town for many
2 years, although the impact aid that we get in dollars from the
3 Defense Department is truly inadequate. But nevertheless, we
4 have assumed that role, and we are happy with that role.

5 We are one of the communities that hope that the Army
6 and the Navy never go away. The possibility of homeless
7 families located in the middle of a very well maintained
8 multiservice Government housing area, for children and
9 families from the Navy and the Army and some Air Force and
10 Marines, will really be a double-whammy to the Borough of
11 Tinton Falls.

12 Tinton Falls, as I said, already educate the Army and
13 Navy and other service children in their schools. The
14 New Jersey schools are funded, almost totally, by the property
15 tax. I think we are 48th of the 50 States in the lower end of
16 receiving State money. It is almost all property tax.

17 In addition to losing the real estate taxes from the
18 loss of the SEACOM Building, we will also have the
19 responsibility, with no tax base, of educating children from
20 these homeless families.

21 I must tell you that I have experience in dealing with
22 homeless families. In Tinton Falls, we have the only county
23 facility for homeless mothers with small children in our area.
24 The county has promised, and they do give, some support. But
25 these families require a larger proportion of police services,

1 volunteer emergency services from our volunteer first aid and
2 fire companies, than does an average family.

3 President Clinton said that this should be a win-win
4 situation for communities. Our community will experience,
5 lose-lose, in the loss of the rent from the SEACOM Office
6 Building. I have done a study, and I have tried to market
7 that building to other entities in the State of New Jersey.
8 Through our elected officials, I contacted Rutgers University,
9 figuring that the State university might have needs. They do
10 not need it.

11 And the truth, from being on the Planning Board for many
12 years, is the requirements of a military office facility are
13 not the same as the requirements of private tenants. We have
14 somewhat of a glut of vacant office space in the State and in
15 the county; and the amenities that are present, or lacking if
16 you will, in the SEACOM Office Building, are not attractive to
17 Local developers.

18 The loss of real estate taxes from our biggest entity,
19 plus the additional social and economic consequences from
20 introduction of McKinney into an already established housing
21 area for the military, which also is in area where our nicest
22 housing, civilian housing, is, would truly be a disaster to
23 the taxpayers of the town. And this is why I request a waiver
24 from McKinney, for this particular situation. Thank you,
25 Mr. Secretary.

1 MR. BAYER: Thank you very much. Mr. Eisenberg?

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1 STATEMENT OF ALBERT C. EISENBERG, SENIOR DIRECTOR,
2 FEDERAL LEGISLATIVE AFFAIRS, AMERICAN INSTITUTE OF ARCHITECTS

3 MR. EISENBERG: I had planned to say, Good Morning; I
4 will now say, Good Afternoon. I appreciate your perseverance
5 and your willingness to listen to me.

6 I am Al Eisenberg. I am Senior Director for Federal
7 legislative Affairs for the American Institute of Architects;
8 and I come before you in that capacity. The AIA has extensive
9 experience in community revitalization. Most recently, we
10 have been involved with the development of the Intermodal
11 Surface Transportation Efficiency Act's planning provisions.

12 We have been working very closely with HUD on its
13 consolidated planning provisions. We've developed strategic
14 planning books for these Departments. We've been involved
15 with a number of localities, scores of them across the Nation,
16 in addressing their economic development issues.

17 We believe the interim rule is seriously deficient. I
18 want to speak about two particular areas: One, the
19 redevelopment plan; and two, DOD's relationship with
20 localities.

21 The rule places substantial emphasis on the process for
22 making facilities available for reuse, but almost totally
23 neglects to provide any recognizable framework for determining
24 that use. More specifically, the plan, the rules provision
25 for a Local redevelopment plan contains no rules and little

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1 guidance on either revitalization, planning, or community
2 assistance.

3 It fails to connect with other administration policies
4 or Federal laws bearing directly on base reuse, such as
5 transportation, housing, and community development
6 authorizations. It fails to recognize that base reuse must
7 occur in a broad context of community and regional interests,
8 and integrate with them.

9 It's virtually silent on public participation, strategic
10 community planning, and the coordination of Federal programs
11 with other, non-Federal public and private actions. The value
12 of good urban design in successful redevelopment is totally
13 absent from the rule.

14 And obviously, we believe these need to be corrected.

15 Let me mention a few specifics, and some
16 recommendations. With respect to the job-centered property
17 disposal process, it inappropriately, in our view, allows DOD
18 to take immediate advantage of its perceived "hottest"
19 properties, with no obligation to reach consensus with the
20 affected communities on their use.

21 The communities can appeal; but on what grounds? There
22 are no National standards governing DOD's consultation, or its
23 decisions about the use of the properties. There's no
24 requirement for compatibility with Local economic development
25 plans; there's no requirement for consistency with Local land

1 use and zoning ordinances; and again, no requirements for
2 public participation.

3 Moving particularly to the reuse plans, and this
4 references, obviously, the economic development and other
5 conveyances: You really ought to require consistency with
6 other Federal authorities, particularly ISTEA and HUD's
7 consolidated planning process. Communities have got to do
8 these things, have got to engage in these, and the base reuse
9 process ought to take note of that.

10 We think you ought to create standards for Local
11 redevelopment plans. This isn't a burden. This protects. It
12 also assists communities in meeting their own needs, and
13 fulfilling their visions. This is not something where the
14 Department is telling communities what your product will be.
15 It's setting the framework, and then allowing them the
16 flexibility to work within that framework.

17 Citizen participation should be explicitly provided for
18 within the rule, in the development of these plans. Most
19 communities do it; but not necessarily the same way, in the
20 same quality, with the same opportunity. They don't
21 necessarily bring everybody in.

22 There ought to be public forums, consensus-building
23 processes, early involvement of all affected parties, ready
24 access of the public to information. Without some guidance in
25 your regulation, this is going to be very spotty across the

1 country.

2 The rule should encourage interdisciplinary coordinated
3 approaches to planning. Otherwise, you're very likely to get
4 isolated, piecemeal projects instead of attention to the
5 larger picture, attention to the integration of these bases
6 into the larger community context.

7 You ought to require benchmarks and performance
8 measures, not necessarily set out precisely what those
9 benchmarks and performance measures are. But you don't even
10 require any at all. So, there are none for the communities to
11 meet.

12 Our sense is that the rule's biggest failure is its
13 treatment of a base closing process as a military, rather than
14 a community, exercise. I think you well protect the interests
15 of DOD. I don't think you have enough in there to guide
16 communities in their efforts to recoup their futures from the
17 loss of their military facilities.

18 Let me say quickly, you all asked some very good
19 questions of the last panel. I hope you will ask similar ones
20 to this one.

21 MR. BAYER: Thank you. Mr. Cromartie?

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1 STATEMENT OF BARRY CROMARTIE, PROJECT PLANNER, CITY OF
2 OAKLAND, CALIFORNIA

3 MR. CROMARTIE: Thank you for the opportunity to speak.
4 It is nice seeing Secretary Bayer again. You spoke in San
5 Francisco some time ago. I want to take an opportunity to
6 tell you that I am representing the East Bay Regional
7 Conversion Commission, which is the regional body that was
8 referred to earlier, as well as the City, locally. So there
9 are both regional and Local concerns.

10 But I would like to begin by stating some general
11 concerns that are, essentially, regional -- though I think are
12 National in application. I would like to concur with
13 Mr. Eisenberg, and also with the question of Mr. Kleiman
14 earlier: That I think we need to take a more holistic
15 approach to what we are doing in conversion. And I would urge
16 us to think of it almost as systems management, or systems
17 thinking.

18 We have to see how the various processes, at a National,
19 State and Local level, fit -- in terms of a past, present, and
20 future continuum; and we also have to think about how these
21 kinds of regulations and policies that you are beginning to
22 implement, interface -- in terms of making sure that one
23 process at a State level will be easily dovetailed at a
24 National and Local level. That kind of systems thinking, I
25 think, would go a long way in answering a lot of questions.

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1 And, if it is necessary to rewrite the legislation, I
2 think -- going on a limb -- that that is what we need to do;
3 because base closure is just beginning, not ending. So I
4 think that is a very important approach to take. I don't see
5 any of these issues as being peripheral issues. It is more a
6 matter of, some issues are more central than others; and we
7 just need to prioritize them.

8 Specifically dealing with the Bay Area and Oakland, we
9 do also object to the job-centered property disposal
10 provision, or the ready-market clause, if you will, for the
11 reasons previously stated. And we tend to equate that
12 ready-market clause, as you boil it down, as undermining
13 regionalism.

14 When you have piecemeal development, and allow people in
15 isolation to cherry-pick, you are going to have an isolated
16 type of development; which is not going to work for the
17 infrastructure. It's not going to work for the
18 transportation. And to the extent we are trying to do that
19 very quickly and to coordinate things in the Bay Area, you are
20 going to undermine that whole coordination.

21 We see regionalism as coordination and efficiency. And
22 when you allow ready-market actions, you are undermining all
23 of that.

24 The second thing I would like to address deals with
25 profit-sharing. The City of Oakland, particularly, is

1 concerned about the profit-sharing provision; and although the
2 DOD, I understand, wants to recruit -- and rightfully so --
3 some of their funds, we are nonetheless concerned that the
4 profit-sharing may work to the long-term disadvantage of the
5 jurisdictions.

6 But I think there may be an oversight on your part in
7 not actually foreseeing how profit-sharing may work. Let me
8 give you an example: There is a pool of money which has been
9 dwindling in California, due to State emergencies, fire,
10 transportation, bridges, a number of things. And that pool of
11 money is undercutting the pool of money that will be available
12 for defense conversion.

13 We would prefer, as bold as this may sound, to have no
14 profit-sharing where DOD does not seek to recoup that money.
15 But in reality, under President Clinton's 5-Point Plan, there
16 was a provision to do some economic grant funding. I think
17 that was the fifth item.

18 The reality is, I don't think that there may be funds
19 available to actually provide those grants. And, given that
20 as a reality, perhaps the tradeoff would be --not to say that
21 we don't want those grants, if they're available; we certainly
22 do -- but the tradeoff would be, if those funds are
23 unavailable, the DOD could make that up by not requiring
24 profit-sharing with the jurisdictions.

25 We have three sites in our City, and we're concerned

1 that profit-sharing may really undermine our long-term
2 feasibility.

3 I would like to jump to two other areas, and then I will
4 conclude my presentation. The other has to do with fast-track
5 environmental cleanup, which deals with the CEQA and the NEPA
6 process and the coordination of that. We concur with that.
7 We hope that the lack of funds will not deter that. But we
8 would also like to urge that the Governor in the State of
9 California has an initiative, a military base initiative, and
10 he has a model which we believe might have some application on
11 a National level.

12 The CEQA/NEPA coordination, that's under Senate Bill
13 1971 with Bergenson, and he's working with the university, Cal
14 State at Monterey Bay, to coordinate that, and to do some
15 environmental fast-tracking, and also to determine future
16 projects. We believe that that would be very significant.

17 The City of Oakland has one particular site, which is
18 the Oakland Old Naval Base. It's a beautiful site, fairly
19 pristine, and there are not a lot of environmental hazards as
20 might be expected in military bases.

21 We would love to have a provision where the long and
22 drawn-out EIS, EIR process is shortened and, if you will, in
23 California we have a negative declaration, or NegDec, process
24 whereby we make finding on mitigation measures, and move
25 forward once those mitigations have been built in. If it's

1 possible to do that through this process, it would certainly
2 facilitate our fast-tracking of the environmental cleanup.

3 The last point, which may be a stretch, has to do with
4 the economic viability and job creation of communities. Our
5 regional commission asked me to present to you a provision,
6 which was actually presented actually as an aside in your 1995
7 Defense Authorization Act, through Congresswoman Nancy Pelosi.
8 Nancy was concerned that the inclusion of Local hiring and
9 contracting goals in legislation needed to be strengthened.

10 There actually is some language which I have here. I
11 don't know if I necessarily need to read it, but it deals
12 with, for Local contractors, if you would give me the liberty:

13 "The county or counties in which military installations
14 to be closed are realigned shall be located, and adjacent
15 counties shall be altered. Bases located in large
16 metropolitan areas may wish to be further restricted by the
17 definition of vicinity of county or City that those bases are
18 located in."

19 What we are attempting to say here is that when you have
20 a large metropolitan area, rather than contract or solicit ads
21 for peripheral counties, that one county may have enough
22 viable contractors that they can adequately handle it. And it
23 also allows the focusing for the Local development, and
24 inclusion of Local developers and contractors.

25 Thank you very much for allowing me to present, and I am

1 free here to answer any questions you may have. Thank you.

2 MR. BAYER: Thank you very much, and I am glad you are
3 here. Mr. Raffel?

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1 STATEMENT OF JAMES RAFFEL, RESEARCH AND LEGISLATIVE
2 ANALYST, NATIONAL COMMISSION FOR ECONOMIC CONVERSION AND
3 DISARMAMENT

4 MR. RAFFEL: I guess by my location and spot I am in the
5 hot seat, and I will try to be brief. I am Jim Raffel. I am
6 a research and legislative analyst at the National Commission
7 for Economic Conversion and Disarmament. We are a public
8 interest organization, that monitors implementation of Federal
9 conversion programs.

10 It is good to see Mr. Bayer again, who was recently in a
11 conference hosted by citizens who are interested in defense
12 conversion around the country. And I appreciate the
13 opportunity to testify here this afternoon.

14 Speaker after speaker here this afternoon has pointed
15 out that the Local redevelopment authority has both the
16 responsibility and the jurisdiction over how to create jobs in
17 the localities where bases are closing. We at the National
18 Commission believe that that is an important concept, but we
19 do have one concern, which is the subject of my very brief
20 testimony here this afternoon.

21 The final regulations are silent on the question of who
22 will make up these Local redevelopment authorities. We
23 believe that the final regulation should mandate that Local
24 redevelopment authorities be broadly representative of the
25 constituencies that will be affected by the shutdown of the

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1 facility, particularly when examining the reuse options and
2 the planning stage of the redevelopments.

3 Since the list of appropriate constituencies really
4 varies from base to base, we believe that an analysis of who
5 the appropriate stakeholders are should be part of the process
6 of setting up each Local redevelopment authority.

7 A partial list of some of the likely candidates includes
8 representatives of such constituencies as Local residents;
9 community-based economic interest groups; Local Government
10 officials; Local Tribes; economic development interests; and
11 elected representatives of the workers or, in the instance
12 where workers are organized, a base of appropriate trade union
13 officials.

14 Once those appropriate constituencies are identified,
15 the representatives to the Local redevelopment authority from
16 each constituency should be chosen by its individual members,
17 when that's possible, rather than by the Base Commander or the
18 Local Government, or Local Government officials.

19 We would point out, as a matter of history, that the
20 failures of a top-down approach to Local reuse planning are
21 evident in such places as Pease Air Force Base, where a Local
22 reuse plan fell apart because a lot of the major constituents
23 weren't consulted in advance.

24 Finally in conclusion, I would just point out that the
25 Department of Energy has set up a task force on community

1 economic development, that is chaired by a special assistant
2 for defense programs, which has been developing guidelines for
3 broad-based community participation and reuse planning at
4 former DOE sites. While this is ongoing work, we do believe
5 that their work can provide a useful model for DOD to examine
6 in the final rule. We thank you.

7 MR. BAYER: Thank you very much. Are there questions
8 from the panel?

9 CAPT. DURGIN: I just wondered if other people could
10 comment on Mr. Raffel's view about mandating or putting some
11 sort of rule or mandates on what would constitute an LRA; how
12 communities would feel about that?

13 And I guess, second, and I think Mr. Lowery sort of
14 brought it up and raised a question in my mind, if
15 I understood what he was saying: He sort of argues the case
16 for taking into consideration what the reuse is going to be,
17 in the valuation of the property, as opposed to I believe the
18 other view, which I understood to be valuing the property sort
19 of as a "where is, as is" kind of condition.

20 MR. EISENBERG: Let me address the first question. I
21 have been an elected official for 11 years, right here in this
22 region, on the Arlington County Board of Supervisors. I
23 chaired that Board twice; I'm vice-chairman now.

24 I see absolutely no problem in you all directing that a
25 redevelopment authority be representative of the community

1 that it is supposed to serve. Those kinds of rules and
2 regulations you will find in other laws, in other Departments,
3 that we already have to follow.

4 Most communities want to reach out to their people; some
5 don't. And the fact of the matter is that, if you want this
6 to be an open participatory process, you really need to say
7 that; and make it clear, not exactly who should be there, but
8 that you have at least the direction, the guidance, that a
9 variety of community interests be served. Again, we already
10 have to follow these kinds of requirements in other laws.

11 Let me just say this. Having heard now about the
12 Department of Energy's strategic planning process, I now know
13 of five separate strategic planning processes within the
14 Federal Government. There may be half a dozen other ones I
15 don't know anything about; and we thought we knew about most
16 of them.

17 I would strongly urge you all, if you want to make this
18 process successful: Link up with other Departments that are
19 already in the field of economic development, already in the
20 field of community planning and revitalization. Otherwise,
21 you are going to have extraordinary disconnects at the Local
22 level, as everybody tries to go around setting up separate
23 processes.

24 And I will defer on the other issue, to other people
25 more competent to respond.

1 MAYOR McNAMARA: I would just like to second what
2 Mr. Eisenberg said. Voluntary compliance sounds great, but it
3 doesn't work.

4 If you people truly complete community involvement,
5 whatever the interests of that particular community are, I
6 really do think you have to require it. It would be a very
7 good idea, and helpful.

8 MR. HERTZFELD: Could I just make a statement here? I
9 am from the Office of Economic Adjustment. And it has been,
10 for the last 30 years since the Office has been in existence,
11 a driving force that we will not give any grant funds unless
12 the group is inclusionary. It has to include everyone. Mayor
13 ~~Entin~~ ^{Intinoli} has said that, that he thanked Paul Dempsey, the
14 Director of the Office, for insisting that the group be
15 inclusionary. And that is a policy and practice; it's not in
16 regulation. But it is a policy and practice.

17 Additionally, the Office of Strategic Planning at the
18 Department of Energy is being headed by a former OEA official,
19 and is basing that whole program on the current DOD process.
20 So it's not like the Government is not talking together; the
21 Government is sharing its wealth of information, based upon
22 the 30-year history of the Department of Defense.

23 MR. LOWERY: Clearly, to answer the first part of your
24 question, Captain, clearly there should be an inclusionary
25 process. And when you think of the land use apparatus that is

1 in place in most communities, with community planning groups
2 mainly neighborhood-based, inclusive of anybody who wants to
3 participate through planning commissions and ultimately
4 through the land use authority -- be it a City Council or a
5 county commission, or a County Board of Supervisors -- that is
6 the political apparatus in place in virtually every
7 jurisdiction across America, to make these kinds of decisions
8 as it relates to ready market.

9 If there's going to be a sale, it should be consistent
10 with community plans. So I say that should be at the back
11 end, something that we're doing with McKinney.

12 But look at the condition most of these bases are in.
13 We have 150 years of combined deferred maintenance on U.S.
14 military bases across the country. Those are the last numbers
15 I had at MILCON a year and a half ago, before I left the
16 Congress. Then, when these bases lay fallow, as some do, for
17 a period of time before some type of reuse is in place, they
18 are not in great shape.

19 Then, when you take into consideration the fact that the
20 utilities, be they water systems, gas and electric, telephone,
21 do not meet commercial standards, the approach that DOD
22 normally takes is, "What is the cost we have invested in these
23 things?" -- to depreciate out, as opposed to, "What is the
24 marketability of these, at the time?"

25 And so there is a rather huge disconnect. And I think

1 that has been the part of the problem why, as I said earlier,
2 there has been a 1600 percent overvaluation thus far; although
3 we could get by with just a half a billion of appropriate
4 funds, and that would meet our realignment needs. Literally,
5 that has not been the case.

6 Now ideally, communities see such value in these bases,
7 they go to great lengths to hire outside consultants and the
8 like, to be sure they can keep their base off the BRAC list.
9 And they use every political resource they have, to escape
10 being closed.

11 But then, once that decision has been made, there needs
12 to be a fundamental shift for, "How do we deal with this new
13 reality, in transition?"

14 Ideally, OEA and other agencies should put forth funding
15 for planning, so that a community plan is in place before we
16 actually close down. I am not aware of where that has
17 happened. There has been a lag.

18 But if you had, as I mentioned, at Miramar it is not a
19 closed base but an ongoing activity -- but, if our Armed
20 Services would work with the communities on these transitions,
21 on the redevelopment plan, and have that in place as early as
22 possible, then where it did make sense to sell property, it
23 would be consistent with community needs and plans.

24 MR. BAYER: Let me raise a question that has come into
25 my mind through this discussion: The commodity of time, time

1 as it relates to the Defense Department; and time as it
2 relates to the community.

3 In the early closures, we weren't drawing down the
4 force; we were simply trying to get rid of the excess
5 facilities we had. And one of the difficulties in those
6 realignments and closures were that you had to build
7 facilities elsewhere, to move activities that you were
8 retaining.

9 Now we are in the different mode where, in many cases,
10 we no longer retain the activities; so that we are actually
11 closing bases quicker. And of course, from our point of view,
12 that makes it a lot less expensive. We don't have the capital
13 investment at a gaining site; and we can close out the
14 overhead and reduce the overhead of a closing site more
15 quickly.

16 You are going to see more of that
17 in the future, although it is going to be offset by the fact
18 that we are looking at much more complicated installations in
19 the future than what we have proposed for closure in the past.

20 But, from a community's point of view, it seems to me
21 that time is also a commodity; particularly as it relates to
22 the human capital that is being displaced. I think that is
23 particularly apparent in places that have a heavy civilian
24 population.

25 We heard from folks from Vallejo, California, where you

1 had 15,000 civilians. If they don't find work, they're going
2 to out-migrate; and that is going to be a major detriment to
3 the community as a whole.

4 Earlier on today, someone mentioned an expectation that
5 we ought to require: A Local redevelopment authority, to be
6 constituted within 6 months; and a plan, to be completed 12
7 months thereafter. Now, Mr. Eisenberg has rightly pointed out
8 a lot of things that ought to be in that plan, a lot of
9 considerations that we haven't articulated, we haven't
10 required, but clearly whenever Federal regulations require
11 that, the communities are needing to do that.

12 My question is: Given that rub of wanting to move
13 forward as quickly as possible, in order to hold on to the
14 folks in the community, and the fact that the Defense
15 Department is going to be moving out quicker than it has in
16 the past, what is a realistic timeframe that we can expect of
17 communities, to come up with a plan that is realistic, that
18 represents a consensus or at least a broad-based
19 representation of the community; that has market feasibility,
20 and has some financial feasibility connected with it? Is an
21 18-month to 2-year timeframe reasonable?

22 MR. LOWERY: I think it is reasonable; and I think it is
23 essential, if you are not going to have the deterioration of
24 the job base as well as of the facilities. I mentioned, if
25 you could start the planning process earlier and actually have

1 something in place before we totally shut it down, rather than
2 do it sequentially.

3 MR. BAYER: I think in most cases that is the case, that
4 we do have a plan; with the exception of communities that have
5 been in either deep denial or political gridlock. Clearly,
6 the resources available to them for planning come almost
7 immediately.

8 And to respond to your concern, Mr. Cromartie, the
9 monies that the Office of Economic Adjustment uses to help
10 communities plan, they aren't that substantial in aggregate.
11 But Congress has been more than generous in funding those, so
12 those will continue. There is no question about that.

13 MR. EISENBERG: Let me answer that. First, if you go
14 back to the empowerment zone enterprise community legislation,
15 and what has unfolded over the last year, you find that
16 communities were given a very short period of time to get
17 their act together to do bottom-up, holistic, integrated
18 planning that involved all levels of Government and all
19 community interests, with a very specific and demanding
20 planning process. And they've done it. They've submitted
21 their applications. There are many good ones in there, and
22 they're going to be funded by the end of the year. And the
23 regulations weren't out on that until the end of last year.

24 Under ISTEA, major communities across the country have
25 had to do 6-year and 20-year plans and come up with those

1 plans on a year-by-year basis, in order to get the money. And
2 they've done that.

3 Because none of this stuff exists in a vacuum. There
4 are already, in most places, planning activities that are
5 going on. The question is: How do they relate? Who's
6 involved? How do they relate to one another? And then, how
7 do they relate to the Department or the Federal interests, in
8 this case, that's driving those processes?

9 I think a lot of the discussion today, not just in this
10 panel but in the other panels, had to do with, with all due
11 respect: What are the barriers that are within the
12 regulations, that get in the way of the communities going
13 about doing their job? Getting into proper partnership with
14 the Department, in getting hold of those properties, or
15 getting them reused.

16 And you clear a lot of this away, according to some of
17 the objections that have been raised today, and you can
18 establish much more specific requirements, and still have a
19 faster process; and be assured of a much better product.

20 MR. RAFFEL: I would just like to underscore the points
21 made by several of the panelists here about planning in
22 advance for base closures before they actually take place, as
23 a way you can promote the expeditious reuse of those
24 facilities.

25 I am aware of a program that OEA had a couple of years

1 ago, that actually did help the appropriate communities do
2 this kind of advance planning; and there are two various
3 provisions in both the House and Senate versions of this
4 year's Defense authorization that would promote that process
5 as well.

6 I would just say, though, that in general it has been
7 our experience that there generally isn't all that much
8 Federal money to help the planning process in advance of a
9 major, you know, the announcement of a major base closure; and
10 that would be something that would be of use for you to
11 consider as well.

12 MR. HERTZFELD: May I just make a point on that? In
13 Fiscal Year 1994, OEA for the first time had the ability to do
14 advance planning; and we put aside a million dollars on a
15 competitive program, to have applications for Defense,
16 potentially Defense-dependent or Defense-dependent communities
17 at risk; base closure, base communities. Communities with
18 bases in them, that would be subject to closure.

19 We were not able to let all those funds out, because we
20 did not have enough communities come forward for that. The
21 feedback that we got back was that communities were concerned
22 about doing advance planning, because they thought that that
23 would mean that their base would be closed.

24 So, in that circumstance, there was not a problem that
25 we didn't have enough money for the planning; it's just that

1 the communities were afraid to ask for the planning money.

2 MR. RAFFEL: Could I follow up on that? That is
3 absolutely correct. And there is language in this year's
4 Senate version of the Defense authorization bill, which
5 specifically instructs both the DOD and the BRAC not to take
6 into account the advance planning that communities may have
7 done prior to the announcement of a closure of a military
8 base; specifically so that communities will have to go and do
9 some more planning, without procrastinating. We think that is
10 quite an important point.

11 MR. BAUR: I have a question to direct to
12 Mayor McNamara. You started and ended your presentation with
13 a strong appeal for a waiver from the McKinney process. Were
14 you suggesting that you either think we have the ability to
15 waive it, or are suggesting a means to waive it? Or are you
16 really saying, McKinney Act should be changed somehow?
17 Because we don't know of a way that anyone in DOD could waive
18 that Act.

19 MAYOR McNAMARA: I would request that the McKinney Act's
20 goals are admirable, but I think there should be consideration
21 given to very unique situations, which I believe my
22 municipality is in.

23 MR. BAUR: I understand that. The question is, the
24 mechanism of waiver. Are you saying the law should be
25 changed?

1 MAYOR McNAMARA: If the law does not provide for a
2 waiver, I would suggest that it be changed.

3 MR. BAUR: I think we really should urge you to talk to
4 your Congressional representatives.

5 MAYOR McNAMARA: Congressman Pallone and Congressman
6 Zimmer are the two Congressmen that we deal with, because I do
7 believe there should be a provision in the law for that.
8 Thank you for that advice, Mr. Baur; I will do that.

9 MR. BAYER: Are there any other comments or questions?
10 (No response.)

11 MR. BAYER: Well, it has been a long morning and
12 afternoon. Again, since you had not planned, or we didn't
13 know that you were going to be speaking today, we are
14 particularly glad this panel was here. Thank you very much.
15 And we will consider ourselves adjourned.

16 Again, the public comment period on these regulations
17 expires as of midnight tonight. So it's like your tax return:
18 Get them postmarked. Thank you.

19 [Whereupon, at 2:35 p.m., the public hearing was
20 adjourned.]

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STATEMENT OF THE HONORABLE ROBERT A. UNDERWOOD (D-GU)
DOD'S INTERIM RULE CONCERNING THE REVITALIZATION OF
BASE CLOSURE COMMUNITIES
August 5, 1994

Hafa Adai and thank you for giving me this opportunity to testify about DOD's interim rule implementing the "Pryor Amendment." If there is no objection, I would also like to include for the record the official comments submitted by the Governor of Guam.

We all know that President Clinton's five-point plan was designed to help communities affected by a base closure. The plan aimed to expedite the turnover of property in order to create jobs and foster economic development. The Pryor Amendment explicitly stated that the federal government can best contribute to community redevelopment by making base property available to communities affected by such closures.

The interim rule, however, contravenes the spirit of the Pryor Amendment. It allows private entities to bid against local governments trying to put property to public use. It allows the Department of Defense to take 60% of all profits from property sales. And it gives the military departments sole discretion over the valuation of those properties.

The people of Guam, like Americans across the country, want a greater voice in the decision-making process than the interim rule proposes. For example, the rule only gives local re-use committees an advisory role, not a substantive position to determine future

LAND USES. COMMUNITY RE-USE PLANS ARE CURRENTLY DEVELOPED THROUGH A PUBLIC PROCESS CHARACTERIZED BY DIVERSE INTERESTS, NEGOTIATION, AND CONSENSUS-BUILDING. WHAT USE ARE THOSE RE-USE PLANS IF THEY ARE NOT IMPLEMENTED?

THIS LACK OF MEANINGFUL COMMUNITY PARTICIPATION MEANS THE INTERIM RULE STUMBLES INTO A LONGSTANDING PROBLEM ON GUAM. HISTORICAL INJUSTICES SURROUND THE ACQUISITION OF CHAMORRO LAND BY THE U.S. MILITARY. NAVAL AIR STATION AGANA WAS BUILT BY CHAMORRO SLAVE LABOR, UNDER THE COMMAND OF IMPERIAL JAPANESE OCCUPIERS. AFTER THE UNITED STATES MARINES LIBERATED GUAM IN JULY OF 1944, THE U.S. NAVY TOOK OVER THE AIRFIELD AND GAVE THE ORIGINAL LANDOWNERS A TOKEN COMPENSATION.

IN 1993, UNDER A BASE REALIGNMENT AND CLOSURE COMMISSION DIRECTIVE, THE PEOPLE OF GUAM FINALLY WON THE RIGHT TO RECLAIM THAT LAND. TO TAMPER WITH THE COMPLETE AND UNFETTERED TRANSFER OF N.A.S. AGANA TO THE PEOPLE OF GUAM WOULD NOT JUST BE A PROCEDURAL MISCALCULATION, BUT A CONTINUATION OF HISTORICAL INJUSTICE. FURTHERMORE, IT WOULD BE A BITTER IRONY TO SEE SUCH AN ACTION THIS YEAR, THE 50TH ANNIVERSARY OF THE LIBERATION OF GUAM.

I AM CONCERNED THAT THE SERVICES ARE IMPLEMENTING THE INTERIM RULE TOO QUICKLY. FOR EXAMPLE, THE DIRECTOR OF NAVY REAL ESTATE FOR THE PACIFIC DIVISION WROTE TO OUR BASE RE-USE COMMITTEE TO INFORM US THAT THE PROPERTY VALUATION PROCESS, UNDER THE INTERIM RULE, WAS BEING INITIATED. IF WE ARE HERE TODAY TO DISCUSS

CHANGING THE INTERIM RULE, WHY IS IT BEING IMPLEMENTED BY THE SERVICES? I WOULD LIKE TO SEE IMMEDIATE ACTION TO SUSPEND ALL CURRENT EFFORTS TO IMPLEMENT THE INTERIM RULE UNTIL DOD HAS REDRAFTED THE RULE.

I WANT TO COMMEND DOD FOR HOLDING THIS HEARING AND FOR EXTENDING THE PUBLIC COMMENT PERIOD. OBVIOUSLY, THE DEPARTMENT UNDERSTANDS THAT THE INTERIM RULE, AS WRITTEN, CANNOT STAND. AS A MEMBER OF THE HOUSE ARMED SERVICES COMMITTEE, I WILL BE VERY PLEASED TO SEE THE DEPARTMENT RESPOND IN GOOD FAITH TO THE COMMENTS PROVIDED BY MY COMMUNITY AND OTHERS.

IT IS POSSIBLE THAT, IF THE INTERIM RULE REMAINS IN PLACE, N.A.S. AGANA LAND WILL BE PURCHASED BY JAPANESE INVESTORS. WE'VE ALL HEARD OF "BUY AMERICAN..." HOW ABOUT MAKING SURE WE SELL AMERICAN? AND WHEN IT COMES TO PUBLIC USE, WE SHOULD MAKE SURE WE GIVE TO AMERICAN LOCAL GOVERNMENTS.

SI YU' OS MA'ASE. THANK YOU.

STATE OF SOUTH CAROLINA
WRITTEN COMMENTS ON PROPOSED INTERIM RULE
PUBLIC HEARING, AUGUST 5, 1994

Thank you for this opportunity to provide testimony on the proposed interim rule. South Carolina is committed strongly to a method through which an economic development conveyance can mutually benefit both a community and DoD. Our major objection to the proposed interim rule is the imposition of DoD in marketing "high value" property and the insistence that "high value" property be separated from a potential economic development conveyance. This testimony only focuses on these concerns. More specific written comments have also been submitted for the record, and I am available to elaborate further on any of these recommendations.

Job creation, replacement and enhancement of the local tax base should be the ultimate goal in our federal policy for base redevelopment. These are well-established, bona fide public benefit activities which we believe are articulated in the language of the Pryor Amendment and President Clinton's Five Point Plan. The rate of return on a closed military installation, which is of ultimate importance, should not be the one-shot real estate payment to the military.

Under the proposed rule, when a base is closed, the primary objective for the Military appears to be recoupment of the real estate value and avoidance of future maintenance. It appears the goal of achieving a public benefit from economic development has been confused with the priority of achieving maximum return for real estate, and with this, the community's right to self-determination and its ability for economic recovery have been subverted to DoD. If a community's economic base is taken away when an installation closes, it can not afford the resources to purchase real estate and support new development.

If the DoD isolates the best development opportunities, the "cream puffs," for their own sole benefit, the community will be faced with the impossible task of finding productive uses for the lemons. This is why the proposed interim rule needs to be revised: if you average the high value property against the negative value property on one base: you may come up with zero value. This would prevent flexibility in development. For example, communities may need to give away property in order for an investor to build a building. Some bases may need to offer unique terms to a free "high value" property in order to anchor a visible tenant that becomes a magnet for other development. Each community is different and the rule should recognize this through flexible terms.

An economic development conveyance should take into account the number of jobs created and private sector investment necessary to create a tax base in the community. Similar methods of valuating

a basis for determining value of economic development are used in state economic development incentives and other federal assistance programs like the Community Development Block Grant program and Economic Development Administration grants.

DoD does not need to establish a role in determining market value of property and marketing that property. Through its own subordinate, the Office of Economic Adjustment, DoD influences the creation of effective community redevelopment plans. There are appropriate times in this process for the Military to identify property for continued military or other federal uses. DoD writes the NEPA required Environmental Impact Statement, in collaboration with the community. The Record of Decision and CERFA determination chart the best course of action for that community to follow, at that time. But, beyond the ROD, the implementation of this plan is appropriately left to the community. When property no longer has a defense need, DoD must sever the umbilical cord and let the local and state governments take over.

If the redevelopment plan recognizes a potential benefit from economic development, then a conveyance for public benefit can be negotiated. The conveyance for economic development should be structured to include properties that are needed to successfully implement the plan for job creating and supporting activities. A split of profits with the DoD is a given.

What must be determined, and considered for discounts in each individual case is the initial value of the property and what community investment in care, maintenance, infrastructure development on and off base, demolition, environmental testing, administration, etc. will be applied against the initial cost. There should be a mutually-agreed upon mechanism to establish the fair market value of the property as it relates to its particular locale and community environment. An essential element of this valuation is consideration for functional and economic obsolescence of the property. Discounts up to 100% from the agreed-upon fair market value would be based on the economic and functional obsolescences, as they are identified in the community's redevelopment plan. The distress to a local and state economy from a base closure and projected redevelopment opportunities should be major factors in considering the amount of discount from fair market value.

This proposed procedure for economic development conveyance would allow redevelopment of former military installations through methods that are commonly used by public and private industrial parks. The real estate value becomes one of the development incentives a public body can offer as an inducement for location in a certain area. The purchase of property can be amortized with flexible terms, or the property can be leased on an interim or long term basis; depending on the kind of job creating commitment the prospect makes. The community will have

flexibility to negotiate with development prospects and the DoD will receive compensation.

The condition of structures on bases influences property values, which is why this proposal recommends discounts for economic and functional obsolescence. Military buildings have been built to house specialized tenants rarely found in the private sector. The value, as estimated by the federal agencies that constructed these buildings, can never be recovered. If a building is suited for conversion, it often requires significant improvements to bring it to code and private utility standards. These renovations, along with required environmental mitigation for asbestos, could exceed the fair market values of some buildings. Those circumstances, obsolete buildings, or buildings that must be demolished for other planned uses, should be part of the negotiated discount to facilitate successful re-use.

Economic development is extremely competitive. Every community in this nation competes against every community: there simply aren't enough new ventures to go around for every available site. The preponderance of former military sites make every base's unique facilities commonplace: having all of the former air force bases on the market simultaneously, for example, only dilutes the redevelopment value of each hangar, because the few aeronautical ventures cannot occupy them all.

OVERVIEW OF RECOMMENDATIONS:

Create procedures for economic development conveyance that:

1. Leave the decision for accepting the conveyance request to the Military Department
2. Require the economic development need to be articulated in the community redevelopment plan
3. Allow consideration for projected number of jobs created, the amount of investment, and overall economic impact to the community
4. Establish discounts based on the economic impact of the base closing, functional and economic obsolescences of properties
5. Maintain a split of profits with DoD, after subtraction of the community's redevelopment investment costs
6. Allow time for successful implementation.

In essence, the supply of former military buildings outweighs the demand, and those communities that are successful in redevelopment will have been creative in their packaging and marketing of these properties. The procedures for economic development conveyance should create opportunities to enable these base communities to compete and be successful in their redevelopment efforts. I appreciate your kind attention and serious consideration of these recommendations.

Haidee Clark Stith
August 5, 1994

FAX TRANSMITTAL COVER SHEET**DATE: AUGUST 3, 1994****TO: JENNIFER NUBER ATKIN****ORGANIZATION: DoD BASE TRANSITION OFFICE****FAX #: (703) 697-5880****PHONE #:****FROM: HERB SMETHERAM****TITLE: EXECUTIVE DIRECTOR
NTC REUSE COMMISSION
CITY OF ORLANDO, FLORIDA****PHONE #: (407) 246-3093****FAX #: (407) 246-3164****NUMBER OF PAGES: (5)****MESSAGE: THESE ARE COMMENTS ON A SUBJECT THAT WE DO
NOT INTEND TO ORALLY PRESENT BUT ARE PROVIDING
FOR INFORMATION.**

WRITTEN COMMENTS FROM THE CITY OF ORLANDO, FLORIDA
PUBLIC HEARING ON INTERIM RULES
WASHINGTON, D.C./AUGUST 5, 1994

IN RE MCKINNEY ACT SCREENING PROCESS

The Orlando Naval Training Center is currently in the McKinney Act screening phase of the Base Closure Process. We are facing a problem with the McKinney Act which we did not foresee. The City, as the Local Redevelopment Authority (LRA) in the base closure process, has an excellent working relationship with the Military officials, and has been active in the creation of a Base Re-Use Plan, in conjunction with the local Base Re-Use Commission.

The Base Re-Use Commission has been working with our local homeless provider in preparing a plan to submit to HHS pursuant to the McKinney Act process. However, an expression of interest has been submitted by a group called Role Models America (RMA), which requests the entire base (2,000 acres) for use as a "Magnet School Academy for At-Risk Dropouts". RMA purports to be able to get two hundred fifty million dollars (\$250,000,000.00) in Federal Funds to operate this facility.

The City and the Base Re-Use Commission certainly support the goals of the McKinney Act, however, the RMA proposal requests the entire base, which undermines the goal of economic development, which is such a strong aspect of President Clinton's Five Point Plan.

The City and Base Re-Use Commission have worked closely with the local homeless provider to put together a plan which will assist the needs of the homeless, as well as encourage the future re-use of the base.¹

The problem which the City is encountering is that there is no point of entry for the City or any other LRA to express concerns or provide comments or input in regards to the expression of interest or subsequent application submitted by the homeless provider. While we certainly support HHS, we would like to be able to express our legitimate concerns, comments or support, especially in light of the President's stated goal of economic development. The City

¹It should be noted that in the current Interim Rules in regard to the McKinney Act (§91.7, paragraph b), provide the following:

This section describes the new process specifically tailored for base closure properties that will expedite the screening process with homeless providers and will result in the early identification of their needs. The Military Departments will work with communities to identify eligible entities and conduct timely outreach seminars to educate homeless providers with respect to the land and buildings that will be made available and the process for making a formal application to the Department of Health and Human Services (HHS). The early identification of homeless assistance requirements for land and buildings at closing bases will permit communities to develop reuse plans that fully accommodate homeless needs, while permitting early identification of the remaining property for either quick sale for job creation or conveyance to a local redevelopment authority for economic development purposes.

The City believes that it has followed this process, and now finds itself in a position where an outside "homeless provider" has come in and will apparently make application for the entire base, without any interaction or input from the City, and with no consideration for the Redevelopment Plan.


would propose that a point of entry for comments by the LRA be allowed during the process.

The attached proposed revision provides that HHS will give notice to the LRA that an expression of interest has been received, and will allow the LRA to provide comments. It should be noted that this proposed revision will not add any additional time to the screening process, but will allow the LRA to comment during the same 90 day period that the provider has to prepare and submit their application.

Thank you for taking the time to consider this comment.

Date

8/3/94


Herb Smetheram
Executive Director

PROPOSED REVISION TO §91.7 (b) McKinney Act Screening.

Federal Register, Page 16129

SUBMITTED BY THE CITY OF ORLANDO, FLORIDA

* * * * *

(5) Providers of assistance to the homeless shall then have 60 days in which to submit to HHS expressions of interest in any of the listed properties. Upon receipt of an expression of interest from a homeless provider, HHS shall notify the Local Redevelopment Authority (LRA) of the receipt of the expression of interest, and shall allow the LRA to provide comments to the expression of interest. The time limit for the LRA to provide comments shall extend to the due date of the application from the homeless provider. HHS shall consider the comments of the LRA during its review of the completed application, as provided herein. If a provider indicates an interest in a listed property, it shall have an additional 90 days after submission of its written notice of interest to submit a formal application to HHS, a period which HHS can extend. HHS shall then have 25 days after receipt of a completed application to review and complete all actions on such applications.

SENT BY:

8- 4-94 ; 8:42AM ;

HON. TONY HALL-

9170369758807# 2/ 4

TONY P. HALL

THIRD DISTRICT, OHIO

COMMITTEE:

HOUSE COMMITTEE ON RULES

SUBCOMMITTEE ON RULES OF
THE HOUSE

CHAIRMAN

CONGRESSIONAL HUNGER CAUCUS

2284 HAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3503
(202) 225-6485

DISTRICT OFFICE:
501 FEDERAL BUILDING
200 WEST SECOND STREET
DAYTON, OH 45402
(613) 225-2843

Congress of the United States

House of Representatives

Washington, DC 20515

August 2, 1994

Mr. Robert Bayer
Office of the Assistant Secretary
of Defense
Washington, D.C. 20301-3300

Dear Mr. Bayer:

Thank you for extending the comment period until August 5, 1994 regarding the Department of Defense Interim and Proposed Rules on Revitalizing Base Closure Communities published in the April 6, 1994 edition of the Federal Register.

As you know, my colleagues and I recognize the importance of a fair and successful transition phase for base conversion to civilian use. As such, I enclose testimony for the record for the hearing scheduled August 5, 1994 at the General Services Administration Headquarters.

Sincerely,



Tony P. Hall
Member of Congress

TPH:wbm

Enclosure

Testimony of Rep. Tony P. Hall on the proposed final rule for Revitalizing Base Closure Communities and Community Assistance before the Deputy Assistant Secretary of Defense for Economic Reinvestment and Base Realignment and Closure, August 5, 1994 public hearing.

Thank you for the opportunity to testify regarding the Department of Defense Proposed Final Rule on "Revitalizing Base Closure Communities and Community Assistance", published in the April 6, 1994, Federal Register.

Gentile Air Force Station, located in Kettering, Ohio, which is in my district, is slated for closure as part of the 1993 Defense Base Closure and Realignment process. With an interest in retaining jobs and bolstering economic development hopes among local civic and business leaders, my community has organized to make Gentile a bright example of base closure success.

I commend the President's five-point plan to spur community economic reinvestment for the rapid redevelopment and creation of new jobs in base closure communities. Especially important is the jobs-centered property disposal process that puts local economic redevelopment first. I believe the proposed final rule establishes policy and procedure that accurately reflect the intent of the National Defense Authorization Act for Fiscal Year 1994 and other changes to the base realignment and closure process generated by Title XXIX of the Act.

Rather than maximizing the proceeds from the sale of real property at military bases slated to close, the focus of the proposed rule is to make base property more affordable to communities for the purpose of job creation. Also, the rule allows communities that have viable plans for economic redevelopment to obtain property at prices within their means. Unfortunately, provisions within the proposed final rule for Revitalizing Base Closure

Communities and Community Assistance may allow for situations which make the acquisition of base property cost prohibitive to the local community.

Gentile is located near the heart of a large urban area and within the City of Kettering, a very desirable location in the Dayton area. The base contains modern office space which currently houses the Defense Electronics Supply Center (DESC). There is a ready market for the property.

Consequently, the rule, as currently drafted, would likely effect a bidding war among public and private concerns that may jeopardize the efforts of the local redevelopment authority to put the property into productive civilian reuse. I would like to avoid private concerns purchasing this site or portions for speculation or for uses inconsistent with attracting high wage paying jobs or leading to job growth in the near term.

Obviously the importance of an expedient property transfer process is crucial to the economic revitalization of impacted base closure communities. However, I cannot stress enough the importance of keeping the community considerations a high priority throughout this process. First and foremost, the process for base transition to civilian use must focus upon the needs of the community as outlined in the local redevelopment plan. To safeguard the interests of those whom are most affected by the closure --the local community-- I suggest additional language be added to section 90.4 to grant the community reuse committee authority to veto base closure property transactions which do not conform to the local reuse plan.



Office of the City Council

City of Tustin

300 Centennial Way
Tustin, CA 92680
(714) 573-3010
FAX (714) 832-0825

August 3, 1994

Mr. Bob Bayer
Deputy Assistant Secretary of Defense
for Economic Reinvestment
and Base Realignment and Closure
and Hearing Officer for Comments
on the Interior Final Rule
The Pentagon, Room 3D814
Washington, D.C. 20301-3300

Thomas R. Saltarelli
Mayor

Jim Potts
Mayor Pro Tem

Mike Doyle
Councilmember

Jeffery M. Thomas
Councilmember

Tracy A. Worley
Councilmember

**SUBJECT: COMMENTS ON INTERIM RULE IMPLEMENTING TITLE XXIX
OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR
1994**

Dear Mr. Bayer:

Representatives of the City of Tustin are unable to attend the public hearing on the subject Interim Rule scheduled for August 5, 1994. However, the City has previously prepared and forwarded a number of substantive comments and concerns regarding the proposed Interim Rules to Mr. Joshua Gotbaum with the office of the Assistant Secretary of Defense (attached). Due to our inability to speak with you directly on these matters at the hearing, we respectfully request that our previous comments and concerns be included in the public record. In addition, we would appreciate receiving any hearing minutes and/or other materials distributed at the hearing.

To summarize, we strongly believe that the Interim Final Rules, as currently drafted, do not address the intent of both President Clinton's 5-Point Plan and Senator Pryor's Amendment to the Defense Authorization Act of 1994. President Clinton and Senator Pryor have both understood and expressed their shared belief that an essential foundation of a truly successful transition from military to civilian use must be weighted toward the local community and their knowledge of the economic and land use issues involved. Economic revitalization and efficient and effective reuse of closing military bases can only occur with the support and assistance of the local community and with a recognition and accommodation of the market constraints (infrastructure, environmental cleanup, entitlement, etc.) affecting reuse of a closed military base property. Local communities are also more experienced

in land development, real estate economics and economic development than a military organization and must have a larger role in the real estate disposition process no matter where a closing military base is (i.e. rural vs. urban area).

We believe that the Department of Defense's Final Interim Rules should be significantly amended prior to formal implementation and we would also request an additional period for public review and comment before any redrafted rules are implemented.

The City of Tustin will provide the Department of Defense whatever technical support and assistance necessary to ensure that reuse planning efforts affecting local communities throughout the country have a chance for success. I am available, as well as Christine Shingleton of my staff, to discuss our concerns and comments at your convenience.

Sincerely,



Thomas R. Saltarelli
Mayor
Chairman Base Closure Task Force

cc: George Schlossberg
Peter Hersh, City of Irvine
Ben Williams, OPR
NAID
Colonel Ritchie, BRAC Office

Attachment



Office of the City Council

City of Tustin

June 29, 1994

300 Centennial Way
Tustin, CA 92680
(714) 573-3010
FAX (714) 832-0825

Mr. Joshua Gotbaum
Office of the Assistant Secretary of Defense
for Economic Security
The Pentagon, Room 3D814
Washington, D.C. 20301-3300

Thomas R. Saltarelli
Mayor

Jim Potts
Mayor Pro Tem

Mike Doyle
Councilmember

Jeffery M. Thomas
Councilmember

Tracy A. Worley
Councilmember

SUBJECT: COMMENTS ON INTERIM RULES IMPLEMENTING TITLE
XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT
FOR 1994

Dear Mr. Gotbaum:

Attached are the City of Tustin's comments on the Interim Department of Defense final rules for revitalizing base communities and community assistance published in the Federal Register on April 6, 1994. The City of Tustin is the reuse authority for the MCAS, Tustin closure in California.

The City would strongly recommend that there be an opportunity to review any additional Department of Defense changes to the proposed rules prior to their being finalized. If there are any questions, please contact Christine Shingleton of my staff at (714) 573-3107.

Sincerely,

Thomas R. Saltarelli
Mayor
Chairman Base Closure Task Force

TS:CAS:kbc\gotbaum.1tr

cc: George Schlossberg
Peter Hersh, City of Irvine
Ben Williams, OPR
NAID
Colonel Richie, BRAC Office



Office of the City Council

City of Tustin

300 Centennial Way
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August 3, 1994

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1994**

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The City of Tustin will provide the Department of Defense whatever technical support and assistance necessary to ensure that reuse planning efforts affecting local communities throughout the country have a chance for success. I am available, as well as Christine Shingleton of my staff, to discuss our concerns and comments at your convenience.

Sincerely,



Thomas R. Saltarelli
Mayor
Chairman Base Closure Task Force

cc: George Schlossberg
Peter Hersh, City of Irvine
Ben Williams, OPR
NAID
Colonel Ritchie, BRAC Office

Attachment



Office of the City Council

City of Tustin

June 29, 1994

300 Centennial Way
Tustin, CA 92680
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Mr. Joshua Gotbaum
Office of the Assistant Secretary of Defense
for Economic Security
The Pentagon, Room 3D814
Washington, D.C. 20301-3300

Thomas R. Saltarelli
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**SUBJECT: COMMENTS ON INTERIM RULES IMPLEMENTING TITLE
XXIX OF THE NATIONAL DEFENSE AUTHORIZATION ACT
FOR 1994**

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The City would strongly recommend that there be an opportunity to review any additional Department of Defense changes to the proposed rules prior to their being finalized. If there are any questions, please contact Christine Shingleton of my staff at (714) 573-3107.

Sincerely,

Thomas R. Saltarelli
Mayor
Chairman Base Closure Task Force

TS:CAS:kbc\gotbaum.ltr

cc: George Schlossberg
Peter Hersh, City of Irvine
Ben Williams, OPR
NAID
Colonel Richie, BRAC Office

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16127

Column 3

Paragraph 91.3 e

Recommended Changes/Comment:

Delete second sentence

Why:

Provisions in paragraph 91.6 and 91.7 describe in specific detail the delegation of authority and screening procedures

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 1

week after the date on which the redevelopment plan is submitted to the Military Department. This scenario could lead to the neglect of the existing buildings and infrastructure, and thereby seriously threaten the local community's chances for a successful conversion. If this language is allowed to remain as is, it would have the potential to severely hamper our marketing efforts.

Recommendations: Section (h) (4), which references the various dates by which responsibilities relating to both personal property and levels of maintenance and repair may terminate, must be revised to take into account the time frames of both the redevelopment plan as well as the dates of closure and/or transfer of property, whichever is later.

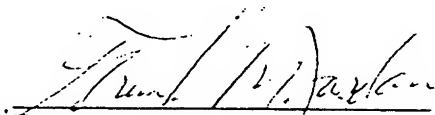
In Section (i) (4) (i) - the phrase "near term" must be more clearly defined, since it relates to the marketing strategy of the local jurisdiction.

To summarize, it appears as though the Rule, as currently written, will not facilitate the implementation of president Clinton's Five-Part Program. This Rule will lead to delays in the implementation of the conversion process, thereby slowing down the creation of new jobs for the local community. Given the significant impact to our regional economy of the pending closure, there is an absolute necessity for the rapid turnover of property to the local jurisdiction.

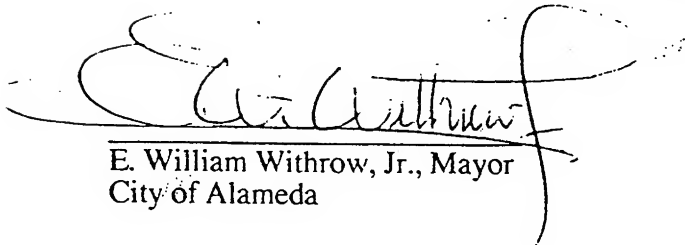
We recommend that the language of the Interim Final Rule with regard to revitalizing base closure communities be significantly revised to more accurately reflect the spirit of the President's Five-Part Program.

We hereby request that such revisions reflect the comments and recommendations made within the body of this letter and its attachments. Thank you for your consideration.

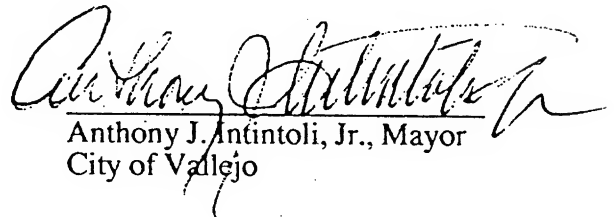
Sincerely,



Frank M. Jordan, Mayor
City and County of San Francisco



E. William Withrow, Jr., Mayor
City of Alameda



Anthony J. Antintoli, Jr., Mayor
City of Vallejo

cc: Senator Dianne Feinstein
Senator Barbara Boxer
Congressman Ron Dellums
Congresswoman Nancy Pelosi
S.F. Board of Supervisors

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16127

Column 1

Paragraph 90.4 (6) (1) through (3)

Recommended Changes/Comment:

Eliminate entire section

Why:

Title XXV makes no reference to the concept of a "ready market". There is a significant flaw in the assumption that forced early or rapid sale of property will mean rapid job creation.

Once a reuse plan is supported by the community, with information available on what actual critical development entitlements are authorized, the local redevelopment authorities have a proven track record on knowing how to create jobs. Rules should acknowledge this experience and permit transfer of property to a redevelopment authority, no matter what the locational market factors are with agreements for profit sharing with the federal government.

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 2

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16127

Column 3

Paragraph 91.3

Recommended Changes/Comment:

Add a new definition for "Fair Market Value"

"Fair market value is the most probable price that a property should bring in its current "as is, where is" condition based on current local zoning and its planned reuse (adjusted for the offsetting cost of public infrastructure to support the planned reuse including abatement of asbestos, lead paint and other hazards) in a competitive and open market. The effect of the base closure on the market shall be taken into account in estimating fair market value.

Why:

There is a need for a common definition of "fair market value"

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 3

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16128
Column 1
Paragraph 91.4 (a) (b)

Recommended Changes/Comment:

Delete the following:

- (a) ~~... "where a ready market exists"~~
- (b) ~~... "where a ready market does not exist"~~

Why:

Title XXIV makes no reference to "ready markets". As noted in Comment No. 1 rapid sale of property will not necessarily mean immediate job creation.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680
Contact Phone: (714) 573-3107

Comment No. 4

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16128
Column 2
Paragraph 91.7 (a) (5)

Recommended Changes/Comment:

91.7 (a) (5) - States that "agencies sponsoring public benefit conveyances should also consider suitability" at the same time that federal and DoD screening interests are considered by the Department of Defense. This particular section needs to be clarified to more clearly define sponsoring agencies. Most agencies sponsoring public agencies are not aware that they should be responding in a timely manner.

Why:

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 5

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16128
Column 3
Paragraph 91.7 (a) (5)

Recommended Changes/Comment:

Delete Sentence 4 of this paragraph:

~~"Requests for transfers of property submitted by other federal agencies will normally be accommodated."~~

Why:

Decision on transfers to other federal agencies should be made in consultation with the local reuse authority with no preconceived direction that such request would "normally be accommodated".

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 6

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, MCAS, Tustin

Page 16128

Column 3

Paragraph 91.7 (a) 7

Recommended Changes/Comment:

Add a second sentence to this paragraph to read:

"In making such a termination, the military department shall take into consideration the cumulative impact of multiple screening requests and determine that the request will not jeopardize the viability of a local reuse plan"

Why:

An essential foundation of a truly successful transition from military to civilian use must be weighted toward local community economic and local land use issues. Approval of a federal agency screening request could render community redevelopment financially infeasible, adversely impact the reuse of the balance of the property and economic recovery of those portions of a community surrounding a base.

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 7

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16128

Column 2

Paragraph 91. (b) (3) Paragraph 1

Recommended Changes/Comment:

Revise this paragraph to read as follows:

- (3) "Military departments shall seek local redevelopment authority input in making determinations on the retention of property and shall consider their input, if provided. Transfer of real property at closing and realigning bases between any of the military departments or retention of real property at a closing base by a military department, must be first approved by the Assistant Secretary of Defense for economic security, unless such a transfer has already been approved by the Secretary of the Military Department."

Why:

There have been cases where transfer of property and retention of property by DOD agencies other than the closing base, has been found to be inconsistent with a community's Reuse Plan, potentially jeopardizing the viability of a proposed reuse plan. An essential foundation for a truly successful transition from military to civilian use must be weighted toward local community economic and land use compatibility issues, which the redevelopment authority knows best.

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 8

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16129
Column 3
Paragraph 91.7 (a) (6)

Recommended Changes/Comment:

Add language to this paragraph to read:

"Military Departments shall make notices of availability available to local redevelopment authorities, state and local governments."

Why:

Communities are not receiving notices of availability automatically or in a timely manner when they are sent out by Military Departments.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680
Contact Phone: (714) 573-3107

Comment No. 9

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16129
Column 1
Paragraph 91.7 (b) (1)

Recommended Changes/Comment:

Revise line 8 from the bottom to read as follows:

...plans that fully accommodate homeless needs

Why:

There could be considerable debate over what constitutes "fully" accommodating. For example, if a local homeless group determines that there are 15,000 homeless individuals in the County that a military installation is located in, does a community reuse plan need to fully accommodate this need or a reasonable, "fair share" allocation. With the conflicts over the McKinney Act developing nationwide, there is no reason to put additional fuel on the fire, if not necessary.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680
Contact Phone: (714) 573-3107

Comment No. 10

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16129

Column 3

Paragraph 91.7 (b) (5)

Recommended Changes/Comment:

Revise second to the last sentence in this paragraph to read:

If a provider indicates an interest in a listed property, it shall have an additional 90 days after submission of its written notice of interest to submit a formal application to HHS, a period which HHS can extend for not to exceed 30 days.

Why:

In outreach seminars, HHS is representing that they can grant multiple extensions with no closure date. This will have a detrimental impact on reuse planning efforts and the completion of screening in a timely manner.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680
Contact Phone: (714) 573-3107

Comment No. 11

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16130
Column 2
Paragraph 91.7 (b) (11)

Recommended Changes/Comment:

CHANGE the paragraph as follows:

"If the local redevelopment authority does not express in writing its interest in ~~a specific property~~ incorporating the property into its reuse plan..."

Why:

Previous references (paragraphs 7 and 9) state that the redevelopment authority needs only to express interest in incorporating the property into its reuse plan to exempt it from further McKinney Act screening. This paragraph implies a much higher standard -- characterization of specific properties. It might be concluded that this would require itemization of building numbers or descriptions of precise properties and uses. A more general description of areas to be excluded from McKinney Act review because of incompatibility of planned uses with homeless assistance should be the standard for exemption from further screening.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 12

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16130
Column 2
Paragraph 91.7 (c) (1)

Recommended Changes/Comment:

Fourth sentence in this paragraph should be revised to read as follows:

"...The local redevelopment plan shall ~~will generally~~ be used as the proposed action in conducting environmental analysis required by the National Environmental Policy Act."

Why:

The community's Reuse Plan should be the preferred alternative in the EIS.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680
Contact Phone: (714) 573-3107

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16130
Column 2
Paragraph 91.7 (c) (1)

Recommended Changes/Comment:

Third sentence in this paragraph should be revised to read as follows:

"...This plan should embrace ~~the range of~~ feasible reuse options that will result in rapid job creation..."

Why:

The purpose of the reuse plan is to identify the best possible base reuses that are acceptable to the community. Presenting a range of feasible options is the responsibility of the EIS, not the community plan. For example, Subparagraphs (2)(i) and (2)(ii) below, consistent with this interpretation, require the local plan to include only the federal and public benefit conveyance transfers recommended by the local redevelopment authority and would not require the plan to include transfers that are opposed by the community. Requiring the plan to include a range of feasible uses is not consistent with this end.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16130-16131

Column 2 (16130) - 2 (16131)

Paragraph 91.7 (d) (entire section)

Recommended Changes/Comment:

Delete this entire section

Why:

The procedure outlined in this section does not respond to any provisions of the Pryor Amendment and is contrary to the President's Five-Point Plan, which emphasizes low cost and no cost transfers of property to community reuse organizations for economic development purposes. The Five Point Plan repeatedly affirms the paramount position of the community development plan for reuse of base facilities. This section could place the community development plan at odds with disposal actions by the Department of Defense. It prescribes a process which operates in advance of and outside the community reuse process. DOD should require property disposals that are nly based on a reuse plan.

There is a fallacy in the assumption used to draft this section that rapid sale will mean rapid reuse or job creation.

Any consideration of market value without taking into account the community Reuse Plan, infrastructure costs and potential public benefit conveyances will result in an unrealistically high market appraisal/land prices resulting in the property not being able to meet federal expectations in terms of sales revenue and resulting in the property not being quickly reused.

We believe that the goals of rapid job creation and economic development can only occur if land use entitlement can be applied to the property and unless the market constraints mentioned above are recognized and accommodated.

Any military decision to offer property for sale after receiving an expression of interest could:

1. Result in a potential for a lengthy adversarial relationship or conflict between the new owner and reuse authority while there are contradictory visions for the base's reuse.
2. Result in private entity false expectations for a property including possible overpayment due to failure to fully understand the infrastructure and other costs associated with development of the property. A community may not wish to entitle development or a new owner may not have resources available to provide adequate infrastructure which could grind any reuse to a halt.
3. Could affect the economic viability of the Reuse Plan if proposed uses are not acceptable to military department and do not generate adequate revenues to offset municipal services costs.
4. Could delay or invalidate the NEPA process underway on a Reuse Plan if purchaser's intended use has not been accommodated within the NEPA document and evaluated by the military prior to closure and disposal. "Private sector rapid job creation" would be best accomplished through the military's recognition and support of the local community's Reuse Plan for the closing base.

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16131

Column 3

Paragraph 91.7 (e) (1)

Recommended Changes/Comment:

Delete last two sentences

Why:

Just because there is an economic development conveyance requested does not mean that property will necessarily have a high enough value to offset maintenance and marketing costs.

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 16

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16131
Column 2
Paragraph 91.7 (e) (1)

Recommended Changes/Comment:

Modify the top 5 lines as follows:

~~...subject to recoupment, often it is determined that the base, or significant portions thereof cannot be sold in accordance with the rapid job creation concept.~~

Why:

This section assumes the whole "ready market" process which is not supported by the City. If there is recoupment and value established, we believe redevelopment authorities should have the ability to request economic development conveyances without having to first go through the job-centered property disposal process.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 17

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16131
Column 3
Paragraph 91.7 (e) (4)

Recommended Changes/Comment:

The term "fair market value" should be more fully defined to be the estimated NET market value of the property after taking into account the proposed reuse and the fair share of all infrastructure, utility system, and other essential upgrades to the property, including abatement of asbestos, lead paint, and other hazards. It should also recognize the devaluation to the property from the stigma and potential ongoing liability from the presence of hazardous substances on the property.

Why:

Failure to recognize these conditions of the property, which may be ignored in a standard appraisal, establishes an artificially high baseline for future negotiations.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page _____
Column _____
Paragraph 91.7 (e)

Recommended Changes/Comment:

Why:

We believe that an economic development conveyance and all other public benefit conveyances can contribute toward the goal of private sector rapid job creation. The DoD's inferred belief in the rules that the two are mutually exclusive is incorrect.

The Pryor Amendment and earlier provisions of the DoD Guidance specifically require that proactive and constructive dialogue be established between the affected military branch and the local reuse authority. However, in regards to these provisions related to Economic Development, the local reuse authority is relegated to potentially pursuing only the "reconsideration" of the military decision. We believe that such appeals should only occur after numerous unsuccessful attempts to reach agreement have been made by both parties.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 19

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16132

Column 2 and 3

Paragraph 91.7 (f) (1); - (f) (2); (f) (4) (iii)

Recommended Changes/Comment:

- Subparagraph (1) should be amended to allow the Secretary of the Military Department to accept local community proposals for a longer payback period to DoD in unusual cases -- not to exceed 20 years.
- The actual 60/40% split in Subparagraph (2) should not be absolute.
- Delete Subparagraph (4) (iii)

Why:

- There may be specific circumstances that may justify a longer pay back period or an alternate split of project profits.
- Subparagraph (4) (iii) This selection of words will be highly inflammatory to most communities and the two sentences are unnecessary. The regulations in 41 C.F.R. 101-47.4908 already describe the reporting process for communities quite adequately.

Contact Name: Christine Shingleton, City of Tustin

Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 20

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16132
Column 3
Paragraph 91.7 (f) (4) (iv)

Recommended Changes/Comment:

ADD the following paragraph:

"(C) A prorata share of the cost of basewide planning, maintenance, security, infrastructure repair, renovation, or construction. Infrastructure costs may include, but are not limited to: roads, water and sewer lines, storm drainage systems, utility systems, lighting, and habitat restoration."

Clarify Subparagraph (B) to provide specific examples of eligible costs.

Why:

The regulations referenced in (A) and (B) are not directly applicable to many of the types of costs that should be considered in valuing the "net profit" from base property sales. Military bases typically require considerable infrastructure renovation to become viable as urban properties. Infrastructure costs may be incurred throughout the base and even outside the base, but the benefits accrue to all properties. In addition, considerable planning, security, and maintenance costs may be incurred to make the property salable. All property sale proceeds should, therefore, contribute to covering these costs, and the "profit" from the sales should be adjusted accordingly.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 21

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16133, 16134

Column 2,3 1,2

Paragraph 91.7

Recommended Changes/Comment:

The City believes that interim rules leave base personal property open for removal. We support all issues and changes to these sections recommended by NAID.

Why:

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 22

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16134

Column 2 & 3

Paragraph 91.7 (i)

Recommended Changes/Comment:

The City supports all comments and changes to this Section recommended by NAID.

Why:

Just because there is an economic development conveyance requested does not mean that property will necessarily have a high enough value to offset maintenance and marketing costs.

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 23

COMMENTS ON THE INTERIM RULE
Implementing Title XXIX Of The
National Defense Authorization Act for FY94

From: City of Tustin, CA; MCAS, Tustin

Page 16135, 16136
Column Appendix A & Appendix B
Paragraph

Recommended Changes/Comment:

These charts will need to be modified to reflect any changes to text.

Why:

Contact Name: Christine Shingleton, City of Tustin
Contact Address: 300 Centennial Way, Tustin, CA 92680

Contact Phone: (714) 573-3107

Comment No. 24



HOMEPORT REUSE PLANNING COMMITTEE

PHONE (205) 441-7115
FAX (205) 441-7119

P.O. BOX 1588
MOBILE, AL 36633

August 4, 1994

Ms. Jennifer Nuber Atkin
Base Transition Office
Office of the Assistant Secretary of Defense
Economic Security
Room 3D814, The Pentagon
Washington, D.C. 20301

Dear Jennifer:

Many thanks for your quick response to our request for submission of Mobile's oral statement and comments to the 4 April interim rule to the DoD hearing on Revitalizing Base Closure Communities to be held 5 August. I enclosed a hard copy of that statement and the comments for your files.

I greatly appreciate the cooperation and professionalism exhibited by you and your office. It is a real pleasure when compared to the alternatives I face throughout this process. If you have any questions, please feel free to give me a call.

Best wishes.

Sincerely,

Judith W. Luno
Federal Grant Administrator

Enclosures

**Oral Statement
to the
Hearing
on
Revitalizing Base Closure Communities
Department of Defense
August 5, 1994
as prepared by the
Chair
Homeport Reuse Planning Committee
Local Redevelopment Authority
Naval Station Mobile**

The Local Redevelopment Authority (Homeport Reuse Planning Committee) represents the State of Alabama, the City and County of Mobile, the utility, business and residential interests impacted by the closure of Naval Station Mobile. Mobile holds two unique distinctions from those of other closing facilities under P.L. 103-160, Defense Authorization Act of 1994. The State of Alabama has, through a Memorandum of Agreement with the United States Navy, a reverter contract that allows conveyance directly to the State of the real property once the property has been declared excess to Department of Defense. Naval Station Mobile is the first closure under BRAC '93. These two characteristics has afforded the LRA to experience, in a fast track manner, the closure process.

The Local Redevelopment Authority (LRA) will make comment to general issues regarding the BRAC process, implementation of the interim rule, and management of base closures, not to exclude the predilection by the Navy in dealing with community. I, on behalf of the community, respectfully request that our oral statement to this hearing and our written comments to the interim rule (enclosed) be included in the record.

In general, the BRAC process holds little incentive or flexibility for joint community-services cooperation for jobs and economic development for closing or realigning facilities as called for in the President's 5 Point Plan of July 2, 1993. The rule is unnecessarily complex and cumbersome allowing for individual interpretation of the law by military personnel representing the interests of claimants and commands not affected by, or at the least, knowledgeable of the closing facility. The rule, as written, allocates broad decision making powers to service personnel who neither understand the interim rule nor hold any expertise in the areas of economic development or land planning. The interim rule's broad policy, contradictory definitions, coupled with the lack of definitive guidance on appellate procedures lays the foundation of an adversarial climate in the negotiation process.

The Interim Rule itself has given the LRA many obstacles to hurdle. When the rules are somewhat clear as to how closure will be conducted, the Military Departments fail to communicate unilaterally the intent and implementation of the guidelines. The LRA, in negotiating closure of Naval Station Mobile, has experienced little or no cooperation from Navy counsel, claimants and commands or mid-level policy people regarding interim leasing, appraisals, personal property conveyance, or long-standing agreements on work orders and services to be provided by the Military Department throughout the BRAC process. The Navy has failed to supply accurate, consistent and complete inventories, "boiler plate" documents, timely appraisals of the real property, and qualified personnel or authority on issues specific to any one element of the interim guidelines. On getting the job done, the LRA experience, to date, has been "work from the top down" or "seek Congressional intervention."

I wish to express the community's appreciation and recognition of the cooperation and support of the principles of the President's 5 Point Plan and the intent of the law by Navy personnel assigned to Naval Station Mobile, Navy/civilian personnel at Southern Division Naval Facilities Engineering Command and at the Assistant/Deputy Assistant Secretary level at Defense. Other than the efforts of these key professionals, there has been little, if any, cooperation or team effort demonstrated by the Department of Navy in carrying out the President's directive of July 2, 1993 or the Congressional mandate of the '94 Defense authorization measure. Apathy and self-willed intentions have directed the closure of Naval Station Mobile. Decisions and compromises made within the chain-of-command or at the local level are consistently being second-guessed and eventually, overruled. The frustration of the LRA and Navy personnel directly associated with the closure of Naval Station Mobile have reached levels which undermine the need or desire for economic development and tax dollar savings.

The impression by the community of Mobile is that Department of Defense guidelines and the Navy's interpretation of those guidelines impede jobs and economic development, waste tax payer dollars, and do little to support effective and streamlined fiscal management within the Department of the Navy. There is no flexibility, no direction in policy, no incentive for dialogue or cooperation between the services and the community and no unilateral desire to meet the mission of downsizing this country's military in time of peace. The community of Mobile strongly urges the Department of Defense and the Base Closure Commission to better define the rules of implementation and to effectively communicate the directive to the affected Military Departments in order to assure timely and affordable base closures. The attached LRA comments to the 6 April Interim Rule outlines, in detail, the problems with and possible solutions to the BRAC process.

John P. Carey
Chair
Homeport Reuse Planning Committee
and
General Manager, Administrative Division
Alabama State Docks Department
State of Alabama



17-6-11
BCU

HOMEPORT REUSE PLANNING COMMITTEE

PHONE (205) 441-7115
FAX (205) 441-7119

P.O. BOX 1588
MOBILE, AL 36633

August 3, 1994

1109

The Honorable Joshua Gotbaum
Assistant Secretary for Economic Security
Department of Defense
Room 3D814, The Pentagon
Washington, D.C. 20301

Re: Department of Defense
32 CFR Parts 90 and 91
RINs 0790-AF61 and 0790-AF62

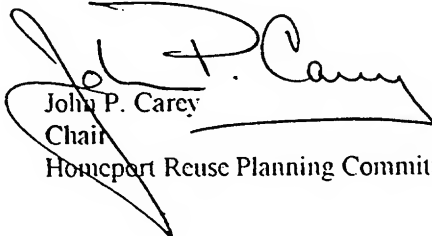
Dear Mr. Gotbaum:

The Homeport Reuse Planning Committee, the Local Redevelopment Authority representing the State of Alabama, the City and County of Mobile, utility, business and residential interests, respectfully submits the enclosed comments to the Department of Defense interim rulemaking on Revitalizing Base Closure Communities and Community Assistance.

The Homeport Reuse Planning Committee stands ready to assist the Office of the Assistant Secretary for Economic Security in defining Department of Defense guidelines into a win/win program for base closures.

With best regards, I am,

Sincerely,



John P. Carey
Chair
Homeport Reuse Planning Committee

Enclosure

**Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: '93 BRAC/Alabama/County of Mobile/Naval Station Mobile/Homeport Reuse
Planning Committee
(Activity/Location/Community/Installation/Group)

Page: 16127
Column: 3
Paragraph: 6 (Section 91.3(h) Definitions)

Recommended Changes: "An area outside a 'Metropolitan Statistical Area' which, after analysis based on marketing trends, economics, job growth, and population growth, are deemed to not have comparable real estate or commercial markets to those areas meeting 'Metropolitan Statistical Areas' criteria."

Why: As the current interim rule is written, the definition of "rural areas" is narrow and exclusive of communities that demographically meet the criteria of "Metropolitan Statistical Areas", yet, because of location and/or resource base, these same communities do not retain strong/competitive real estate markets or commerce. Naval Station Mobile, located in Mobile, Alabama, is an example of a facility located in a coastal community supported by port and tourism activities. Naval Station Mobile was constructed in the southern reaches of the county where transportation infrastructures are not adequately developed to support economic growth. Naval Station Mobile possesses a "rural nature" with little or no economic recovery opportunities. Mobile's competitiveness, as a port, is also diminished by its proximity to New Orleans, Tampa, Pensacola, Jacksonville, and Houston. Further, recreation and tourism is overshadowed by the abundance of Gulf Coast-, amusement- and entertainment- related industries of Florida and Mississippi.

Name: John P. Carey, Chair
Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
Phone: (205) 441-7115

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

**Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: '93 BRAC/Alabama/County of Mobile/Naval Station Mobile/Homeport Reuse
Planning Committee
(Activity/Location/Community/Installation/Group)

Page: 16128

Column: 16128 Column 1

Paragraph: (Section 91.5 (c) Responsibilities - new section)

Recommended Changes: The Military Departments must secure the approval of the Assistant Secretary of Defense for Economic Security for Military Department interpretations of the interim rule which conflict with the intent of the President's Five Part Plan and conflict with the decisions or jurisdiction of the Base Closure and Realignment Commission. The Military Departments must also secure approval of the Assistant Secretary of Defense for Economic Security and the DoD General Counsel for any Military Department legal opinions which question or conflict with the decisions or jurisdiction of the Base Closure and Realignment Commission.

Why: Consistently, the local redevelopment authority administering the closing and transition of Naval Station Mobile has had to fight, every step of the way, mid-level and non jurisdictional command interpretations of President Clinton's directive, the 1993 DoD Authorization public law (Pryor bill), or the directives by DoD as issued in the April 6, 1994 interim rule. The LRA has not only experienced Military Department personnel administering their own brand of policy, but has also experienced total disregard for the spirit of the law. The common answer given to the LRA, when it inquires about discrepancies in interpretation and implementation of the law, is "until I'm ordered, I will not,...BRAC does not apply to my command,...we're the Navy, we're different, etc.". The frustration by the LRA in its dealing with the various levels of personnel within the Department of Navy has left us with no other alternative than to seek Congressional relief. The aforementioned proposed language should spell out clearly to each Military Department that BRAC is a joint uniform/civilian effort directed by the Commander in Chief of the United States of America.

Name: John P. Carey, Chair
Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
Phone: (205) 441-7115

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

**Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: '93 BRAC/Alabama/County of Mobile/Naval Station Mobile/Homeport Reuse
Planning Committee
(Activity/Location/Community/Installation/Group)

Page: 16128
Column: 16128 Column 3
Paragraph: (Section 91.7 (a)(7) Procedures)

Recommended Changes: Within the 6 month screening period in paragraph (a)(4) of this section, the Military Departments shall consult with the local redevelopment authority and make appropriate final determinations whether a Federal Agency has identified a use for, or shall accept transfer of, any portion of the property. If no Federal Agency requests the property, the property shall, no later than 30 days after the close of the Federal Agency screening period, be declared surplus.

Why: The change in this provision insures expeditious treatment of each property and sets a deadline toward which Military Departments must finalize its actions.

Name: John P. Carey, Chair
Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
Phone: (205) 441-7115

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

**Format For Comments On The Interim Rule
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Forward comments to: Office of Assistant Secretary of Defense for Economic Security
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Washington, D.C. 20301-3300

From: '93 BRAC/Alabama/County of Mobile/Naval Station Mobile/Homeport Reuse
Planning Committee
(Activity/Location/Community/Installation/Group)

Page: 16130

Column: 16130 Column 3

Paragraph: (Section 91.7(d)(2) Jobs-centered Property Disposal)

Recommended Changes: There are no recommended changes to the following language...."Such appraisals or estimates should address a range of likely market values taking into account: feasible uses for the property; the uncertainties in property development; and, current market conditions, etc....The appraisals should not be based on the highest and best use, but the most likely range of uses consistent with local interests...." However, the Military Departments need to uniformly apply the directive outlined in the interim rule, Section 91.7(d)(2).

Why: Although the appraisal for Naval Station Mobile¹ was presented to SOUTHDIV Naval Facilities Command the first week of June, 1994, the Local Redevelopment Authority has not received that appraisal. It is the understanding and perception of the LRA that the Navy directed the appraiser to recalculate value of the real property based on the Navy's own interpretation of fair market value and a reverter agreement which exists between the Navy and the State of Alabama. It also appears, at this writing, that the property may have been appraised "piecemeal" based on inquiries by the real estate division within SOUTHDIV NAVFAC and OPNAV 44. Appraising the property in this manner distorts the value of the property as a whole and probably does not take into account the value of the submerged lands. This approach hardly meets the spirit of interim rule in that Navy personnel within the Pentagon and in Charleston have deemed themselves experts on the commercial and industrial property values in Mobile, Alabama.

Name: John P. Carey, Chair
Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
Phone: (205) 441-7115

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

¹ The appraisal process executed by the Navy fit the criteria used in determining appraised value as defined in "Jobs-centered property disposal" rather than that of "economic development", because the LRA has not completed its reuse plan and the Navy has already conducted an appraisal.

**Format For Comments On The Interim Rule
Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: '93 BRAC/Alabama/County of Mobile/Naval Station Mobile/Homeport Reuse
Planning Committee
(Activity/Location/Community/Installation/Group)

Page: 16130

Column: 16130 Column 2

Paragraph: (Section 91.7(c)(2) Real Property Appraisals)

Recommended Changes: There should be an effort to define, more clearly, the criteria on how "fair market value" appraisals are to be conducted on the property as a whole. If the fair market value appraisals are conducted on a "readily marketable" basis, then guidelines should take into consideration, as-is, where-is, zoning laws, existing infrastructure and expressed interest of use. If the fair market value is based on economic development and a reuse plan, the appraisals should be conducted after the Local Redevelopment Authority submits a reuse plan, as well as reflect as-is and where-is conditions, location, zoning laws, existing infrastructure, and any expressed interest in the property.

Why: The interim rule has two different descriptions of fair market value. Neither definition takes into consideration the differing circumstances affecting the property in the event property is conveyed for economic development purposes or is considered readily marketable. Further, if appraisal is based on reuse for economic and rapid jobs development, then the appraisal should take place after consultation with the Local Redevelopment Authority and after a reuse plan is proposed. In addition, the interim rule does not clearly define the property to be appraised. As currently written, appraisal can emphasize land, buildings, infrastructure or any unique feature of the property resulting in an inflated value based on any one asset. The interim rule should define and appraise the property as a whole.

Name: John P. Carey, Chair
Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
Phone: (205) 441-7115

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule
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National Defense Authorization Act For FY94

Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: '93 BRAC/Alabama/County of Mobile/Naval Station Mobile/Homeport Reuse
Planning Committee
(Activity/Location/Community/Installation/Group)

Page: 16130

Column: 16130 Column 3

Paragraph: (Section 91.7 (d)(3)(i) Jobs-centered property disposal)

Recommended Changes: Advertisement for expressions of interest shall be open for 3 months.

Why: Advertisement for expression of interest should afford ample time for private interests to prepare proposals of use. However, six months is too lengthy and burdensome. Department of Defense and the Local Redevelopment Authority require expeditious property disposal based on jobs and economic development. Any private interest expressing interest in the land can within three (3) months provide to the Military Departments a detailed plan of action for the site in question.

Name: John P. Carey, Chair
Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
Phone: (205) 441-7115

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

**Format For Comments On The Interim Rule
Implementing Title XXIX Of The
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Forward comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

From: '93 BRAC/Alabama/County of Mobile/Naval Station Mobile/Homeport Reuse
Planning Committee
(Activity/Location/Community/Installation/Group)

Page: 16130-16131

Column: 16130 Column 3; 16131 Column 1

Paragraph: (Section 91.7(d)(3)(ii) Jobs-centered property disposal)

Recommended Changes: The Military Departments shall analyze each expression of interest and shall make a final determination, after consultation with the Local Redevelopment Authority, within 30 days if it is made in good faith and represents a reasonable development proposal.....The property proposed for sale shall promptly be publicly identified, and the redevelopment authority shall be consulted. If in the event, the Military Departments opts for private sale, the redevelopment authority may request reconsideration of this decision under paragraph (d)(5) of this section....

Why: The subparagraph, as written, would allow delays to transition to be utilized by private interests whose plans may conflict with the community interests. Political or financial incentives, that may be adverse to community interests and goals, may well intercede in the orderly transition of the property. The above change would offer no appeal process to private interests who cannot or will not present a clear and concise action plan for the property in question. In addition, the LRA will be concurrently working to develop an economic development plan with the aid of state and federal dollars (Office of Economic Adjustment community assistance programs). It is a waste of taxpayer dollars to exclude the LRA from the planning, or at the very least, the decision making process.

Name: John P. Carey, Chair
Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
Phone: (205) 441-7115

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Forward comments to: Office of Assistant Secretary of Defense for Economic Security
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Page: 16131

Column: 16131 Column 1

Paragraph: (Section 91.7 (d)(4) Jobs-centered property disposal)

Recommended Changes: A few high value installations for which a ready market apparently exists may, nevertheless, not have generated any expressions of interests during the allotted three (3) month period.....Redevelopment authorities shall be so informed as soon as possible, but no later than four (4) months after the completion of the McKinney Act screening process.

Why: To adjust the timing so that it agrees with the revised time schedule proposed in subparagraph (d)(3). As written, the language would allow unnecessary delays to transition. In addition, it potentially allows for political or financial inducements that may be adverse to community interests and goals. Because the community concurrently works to develop a reuse plan (with the aid of state and federal dollars - Office of Economic Adjustment community assistance programs) while DoD carries out its policy on property disposal, it is essential to confer with the Local Redevelopment Authority in the decision making process. Taxpayer dollars are wasted when these principals fail to work jointly toward economic development of closing installations.

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Mobile, Alabama 36633
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Column: 16131 Column 2

Paragraph: (Section 91.7 (e)(4) Economic Development Conveyances)

Recommended Changes: Before making an economic development conveyance of real property, an appraisal or other estimate of the property's fair market value shall be made, based on the proposed reuse of the property. The Military Department shall consult with the Local Redevelopment Authority on appraisal assumptions, guidelines and on instructions given to the appraiser, but shall be fully responsible for completion of the appraisal and a copy of said appraisal shall be provided to the Local Redevelopment Authority, within 90 days, after completion of the reuse plan.

Why: Appraisal of Naval Station Mobile was completed and submitted to the SOUTHDIV Naval Facilities Engineering Command, the week of 1 June, 1994 (coincidentally, the week following closure). The Local Redevelopment Authority was not consulted with regard to appraisal assumptions, guidelines or instructions. Further, the LRA has not been given sufficient time to complete its reuse plan, yet an appraisal of Naval Station Mobile has already been conducted. There is no method to the Navy's madness in its interpretation of the interim guidelines. The LRA is not sure as to whether or not an appraisal was conducted on the basis of jobs-centered property disposal or on the basis of economic development as dictated by the reverter agreement between the State of Alabama and the Department of Navy.

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Homeport Reuse Planning Committee
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Mobile, Alabama 36633
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Column: 1

Paragraph: 3 (Section 91.7(g)(2)(i)Procedures/Leasing of Real Property)

Recommended Changes: The Secretaries of the Military Departments are authorized by P.L. 103-160, section 2906 to lease real and personal property at closing or realigning bases for consideration of less than the estimated fair market value, if the Secretary concerned determines in writing to the Local Redevelopment Authority(LRA) and/or requesting party: (i) That a public interest will be served as a result of the lease. (ii) That securing the estimated fair market value from the lease is not compatible with such public interest.

Why: The Local Redevelopment Authority in its efforts to secure interim leasing of the pier and its supporting facilities to date has not received substantive or logical explanations as to why the Department of Navy is unable to negotiate interim lease agreements regarding former Naval Station Mobile. Depending upon the Command to which you are speaking with, verbal responses vary. Written response with explanation, whether in support or refusal of interim lease proposals, from the appropriate departmental Secretary should accompany each response so as to facilitate the next step in the negotiation process.

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Homeport Reuse Planning Committee
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Column: 1

Paragraph: 3 (Section 91.7(g)(4) Procedures/Leasing of Real Property)

Recommended Changes: The Department of Defense shall establish a basic formula or "boiler plate" document to be used by all Military Departments to serve as a guideline for lease negotiations between the Local Redevelopment Authority and the command which owns the real property. Leasing authority should be relegated to the lowest possible level, with oversight disposition located at the Assistant Secretary level. The negotiating agent should be intimate with the personnel and administrative structures of the closing or realigning facility, be accessible to the community, be responsive to the redevelopment needs of the community while exercising prudent and consistent stewardship over these public assets. When requested by the Local Redevelopment Authority, the command negotiating the lease will provide, in writing to the LRA, an explanation as to the necessity to include specific language in the lease agreement.

Why: The impersonal nature of the Department of Defense bureaucracy undermines the intent of the President's Five Part Plan to minimize the negative economic impact resulting from the BRAC process. It is difficult, if not impossible, for jurisdictional administrative commands to possess insight into the uniquely complex problems, i.e. environmental cleanup or mitigation, specialized function or mission associated with base condition, special military operations consideration, etc., associated with each closing or realigning facility. Consultation and cooperation with the owner of the property/or Officer in Charge can expedite replicative and onus steps that restrict negotiations and closure of leasing agreements. Further, the Local Redevelopment Authority, in its efforts to secure interim leasing of the pier and its supporting facilities, to date has not received substantive or logical explanations as to why the Department of Navy is unable to negotiate interim lease agreements regarding former Naval Station Mobile. Depending upon the Command to which you are speaking with, verbal responses vary. Written response with explanation, whether in support or refusal of interim lease proposals, from the appropriate departmental Secretary should accompany each response so as to facilitate the next step in the negotiation process

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Column: 2

Paragraph: 1 (Section 91.7(h)(1) Personal Property)

Recommended Changes:The Department of Defense will keep a great deal of the personal property at the base while the redevelopment study/plan is being conducted/developed. Only valid exemptions will be made to this freeze, usually involving the "military unique" or "mission essential" nature of the specific service being realigned or decommissioned.

Why: The Local Redevelopment Authority recommends that the Subparagraph (h)(1) phrase "or property which the base does not own." be removed from the guidelines. The statement allows for the removal of non-military unique or mission critical equipment, by other claimants or commands, that may be critical to the community's redevelopment efforts. As written, the LRA is forced to negotiate with multiple commands within a service in order to achieve its reuse strategy. In addition, most commands are physically and psychologically far removed from the impacted communities and lack any impetus to cooperate with the community efforts to recover from the base closure acts.

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Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
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Column: 2

Paragraph: 2 (Section 91.7(h)(2) Procedures/Personal Property)

Recommended Changes: Each Military Department and Defense Agency, as appropriate, shall provide to the Local Redevelopment Authority, prior to closure or realignment of any unit located on a closing or realigning base, an inventory of the personal property as of the date closure of the facility is signed into law. The inventory shall include its condition and location and to include corresponding explanations of codes (key) used in inventory compilations.

Why: Naval Station Mobile compiled its inventories less than 30 days prior to closure (coincidentally dated June 1, 1994) of the facility. Less than 21 calendar days out from closure, the Local Redevelopment Authority was provided with an inaccurate, incomplete and unintelligible inventory of the remaining personal property on the facility. The inventory presented to the Local Redevelopment Authority did not relate to condition of personal property or the location of said property remaining on the facility. Further, prior to official cessation of operations at Naval Station Mobile, many items departed the facility under the definition of "in support of realigning units" or "immediate need of realigning units" when in fact, the equipment in question was not required or installed at the point and time of realignment. The suggested changes affords an accurate system of accountability that guarantees closing and realigning facilities and decommissioning units are not stripped of personal property essential to economic redevelopment.

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Homeport Reuse Planning Committee
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Column: 16133 Columns 2 & 3

Paragraph: 1 (Section 91.7(h)(3) Personal Property)

Recommended Changes:Based on these consultations, the base commander and the Local Redevelopment Authority will be responsible for determining the items or category of items potentially enhancing the reuse of the real property and needed to support the redevelopment plan.

Why: The base commander cannot make such determinations on his own in that he/she is not an expert in jobs and economic development and land planning. Even after consultation with the LRA, as prescribed in this paragraph, there is no protection, afforded to the community, from chain of command intervention in the event the base commander supports community goals.

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Column: 16133 Column 3

Paragraph: 1 (Section 91.7(h)(3) Personal Property)

Recommended Changes:Disagreements should be resolved within the chain-of-command, with final authority on resolving personal property issues resting with the Secretary of the Military Department or the Assistant Secretary of Defense for Economic Security.

Why: The change provides for civilian participation in the process. The ASD(ES) is an agent of the President's initiatives to minimize the adverse impact of facilities under the base closure acts. The Defense Department Director for real property may not be sensitive to adversities affecting the impacted communities nor may he be fully versed on BRAC closure and the interim rule. Also, by removing the language at the end of paragraph (h)(3)...."This authority may be further delegated."...the process remains unencumbered by reducing the number of people and/or steps by which decisions are made.

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Page: 16133-34
Column: 16133 Column 3 - 16134 Column 1
Paragraph: 1 (Section 91.7(h)(4)(i) Personal Property)

Recommended Changes: The Military Departments should make every reasonable effort to assist affected communities in obtaining the personal property needed to convert the bases into economically-viable enterprises. Personal property, as defined by accurate and timely inventories, not subject to the exemptions in paragraph (h)(5) of this section shall remain at a closing realigning base until one of the following time periods expires:

Why: The suggested change here insures early on in the process to both the Military Departments and the community that negotiations are based on an accurate and uniform listing of personal property. The Mobile Local Redevelopment Authority's experience in negotiating with the Navy on personal property issues has been negotiations based on inaccurate, incomplete and interim inventories. Complete and timely inventories are essential to determining what personal property exists and remains on site for reuse/economic development.

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Column: 16133 Column 3 - 16134 Column 1

Paragraph: 1 (Section 91.7(h)(4)(i) Personal Property)

Recommended Changes:Personal property, as defined by accurate and timely inventories,
not subject to the exemptions in paragraph (h)(5) of this section shall remain at a closing
realigning base until one of the following time periods expires:

(i) One week after the date on which the redevelopment plan is approved by the
applicable Military Department.

Why: The change to subsection (i), paragraph (h)(4) allows for personal property to remain on
base until the Military Department authorizes or approves the LRA redevelopment plan. As
currently written, the guidelines allow the property to leave one week after submittal of the local
redemption plan. The guidelines do not insure that personal property will remain on site while
the jurisdictional department determines whether or not the proposed plan is acceptable. The
redemption authority's experience, throughout this process, has been that both Navy and
Defense personnel have not or can not resolve, authorize, administer, etc. any issue within one
week's time frame.

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Page: 16133-34
Column: 16133 Column 3
Paragraph: 1 (Section 91.7(h)(4)(iii)(iv) Personal Property)

Recommended Changes: Delete/Strike subsections (iii) and (iv) of Section (h)(4).

Why: As currently written the dates referred to in Section (h)(2) are not clear. Is DoD referring to June 1, 1994, the date closure is announced, the date the facility is declared excess, etc., because 24 months after any of these dates for 1993 closures does not, in most cases, equate to November 30, 1995. Further, subsections (i) and (ii) clearly allow sufficient time for the LRA to identify personal property for its reuse effort (if accurate and timely inventories have been provided by the services).

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Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
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Column: 16133 Column 3 - 16134 Column 1

Paragraph: 1 (Section 91.7(h)(5)(i)(ii) Personal Property)

Recommended Changes: Combine subparagraphs (i)(ii) to read...(i) Is mission critical or military unique for the operation of a unit, function, component, weapon, or weapon system transferring to another installation not slated for closure, realignment, or decommission in the BRAC 1988, 1991, 1993 and 1995 cycles. A transferring unit or function may take personal property needed to implement assignments or orders existing at the time of transfer, provided suitable equipment will not be immediately available there and moving it is cost-effective.

Why: The Local Redevelopment Authority recognizes personal property that is defined as "mission critical" or "military unique" as meeting the intent of the Pryor amendment and the President's 5 Point Plan. Subparagraph (h)(5)(i) language, as written, includes major commands or claimants which allows for systematic stripping of personal property that may prove critical to economic redevelopment. In addition, personal property should not be transferred with decommissioning units or to facilities that are slated for closure unless it supports realignment that is "mission critical" or "military unique" in nature. This provision would eliminate the administrative "cherry picking" by DoD or other Federal Agencies.

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Homeport Reuse Planning Committee
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Mobile, Alabama 36633
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Page: 16134
Column: 16134 Column 1
Paragraph: 1 (Section 91.7(h)(5)(v) Personal Property)

Recommended Changes: Meets known requirements of an authorized program.....In this context, "expenditures" means the Federal Department or Agency, at the time closure is signed into law, has obligated funds in the current quarter or the next six fiscal quarters..

Why: This change insures that planned/budgeted DoD procurement directives are met. It does not allow any command or claimant to pad its procurement budgets and their inventories at the expense of impacted communities (stockpiling issue). The LRA believes that if the Military Department commands or claimants did not articulate or budget (the need for) personal property, when outlining its short-term and long-term budget and equipment goals, these commands and claimants should not benefit from excess property stock at closing or realigning facilities.

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Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
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Column: 16134 Column 2

Paragraph: 7 (Section 91.7(h)(7) Personal Property)

Recommended Changes: In addition to the exemptions in paragraph (h)(5) of this section, If a realigning unit, command or other claimants request personal property that is also requested by the Local Redevelopment Authority for reuse, the Military Department or Defense Agency is authorized to substitute an item of comparable function or value similar to one requested by the redevelopment authority only if the Defense agency has attempted to locate comparable personal property from:

- (i) Defense Reutilization and Marketing Service.
- (ii) Another installation.
- (iii) Other Federal Agency property surplus disposal systems, i.e. General Services Administration.

Why: The guidelines, as currently written, allows for delays in the Local Redevelopment Authority's efforts to develop and implement an economic recovery plan by removing key equipment and machinery. The rules also discourage early management and operation of real and personal property by the Local Redevelopment Authority, which could result in Military Department savings. The proposed revision would streamline the bureaucracy associated with a system-wide search for equipment resulting in substantial packing and transportation savings for the requesting DoD Agency. Cost benefit is hardly justifiable when the military disperses funds to (1) ship personal property from a closing facility, (2) ship personal property to a closing facility as replacement. Additional revenue loss is evident in the current guidelines from the standpoint of personnel productivity and encumbered paperwork

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Page: 16134
Column: 16134 Column 2
Paragraph: (Section 91.7(i)(2) Maintenance)

Recommended Changes: Public Law 103-160, section 2902 states that the Secretary may not reduce the level of maintenance.....except when the Secretary of the Military Department concerned determines that such reduction is in the National Security interest of the United States. This requirement remains in effect until both the real and personal property is deeded over to federal agency, state agency, local agency, Local Redevelopment Authority or private interests.

Why: The guidelines, as currently written, potentially allows for deterioration under the time scheme outlined in (h)(4) of this section. If Military Department maintenance responsibilities end:

- (a) one week after the redevelopment plan is submitted. Note: The facility is left vulnerable to the time frame used by the services to accept or reject redevelopment plans;
- (b) the date of which the LRA declines to submit a redevelopment plan. Note: The facility is left vulnerable to the length of time it takes for other interests to take title;
- (c) twenty four months after the dates referred to in paragraph (h)(2) of this section which for 1988, 1991, and 1993 base closures and realignments is November 30, 1995, or 24 months after the date of approval of the 1995 closures and realignments. Note: The Military Department can relinquish maintenance responsibility at an earlier date than stated in paragraph (h)(2). The date in paragraph (h)(2) does not refer to a specific date other than June 1, 1994. Is the intent paragraph (3)(ii) the date the facility is announced for closure, the date the facility closes, the date the facility is declared excess to DoD needs, etc...? As written, any base on the 1993 closure list which does not close in 1994 or 1995 may not be maintained by the services long enough to allow resolution of the BRAC process.
- (d) ninety days before the date of the closure or realignment of the installation. Note: Military Department planning seeks the earliest closure possible. In a compressed closure time schedule, the Military Departments, under this time frame, are not allowing adequate time for the property to complete the screening processes, much less complete property transfer to the community or non DoD entity.

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Homeport Reuse Planning Committee
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Column: 16134 Column 3

Paragraph: (Section 91.7(i)(3)(ii) Maintenance)

Recommended Changes: The initial minimum level of maintenance and repair to support non-military purposes shall be determined, after consultation with the Local Redevelopment Authority, prior to closure or realignment of the base or unit. Inspection of all property affected by BRAC shall be reviewed by the LRA when it presents its redevelopment plan to insure the property has not deteriorated. Any deterioration to the infrastructural or the structural portions of the facility shall be repaired by the responsible Military Department. In no case shall the level of maintenance and repair:

- (i) Exceed the standard at the time of approval of the closure or realignment.
- (ii) Require any improvements to the property to include construction, alteration, or demolition, except that required by environmental restoration and that agreed to by the Military Department and the Local Redevelopment Authority prior to transfer of property.

Why: The guidelines, as currently written, potentially allows the Military Department to choose the level of maintenance without regard to potential reuse. It further does not set any standard for maintenance which reflects environmental or climate conditions of a region (arid areas not prone to natural disaster are less likely to require a level of maintenance than coastal, sub-tropical areas in tornado, hurricane or flood zones. The LRA is best suited to advise on the level of maintenance required. The guidelines do not assure the community that every attempt will be made to maintain the facilities, nor do they insure, in the event the Military Department does not prevent deterioration or damage, repairs will be made. Further, the guidelines do not take into account agreements or verbal commitments by the military to improve the property prior to transfer of deed.

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Homeport Reuse Planning Committee
Address: P.O. Box 1588
Mobile, Alabama 36633
Phone: (205) 441-7115

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Office of the Mayor
SAN FRANCISCO



FRANK M. JORDAN

August 2, 1994

Mr. Robert Bayer, Deputy Assistant Secretary of Defense
Office of the Assistant Secretary of Defense for Economic
Security
Room 3D854
The Pentagon
Washington, D.C. 20301

Dear Mr. Bayer:

I am writing in reference to the Interim and Final Rules regarding the Revitalization of Base Closure Communities as described in 32 CFR Parts 90 and 91. In addition to these written comments, my staff will be providing testimony at the upcoming hearing on August 5th in Washington, D.C.

I had the opportunity to be in attendance when the President visited the Bay Area last year to announce his five point program. I was personally encouraged by the commitments he made. I was especially encouraged by the first part of the plan intended to create "job centered property disposal that puts local economic development first". We are, however, concerned that the provisions contained in the interim and final rules conflict with this goal.

Two particular provisions are of great concern to us. The first is the procedure for quick sales on the private market for high value sales of property. We believe that Naval Station Treasure Island, which is one of three bases located in San Francisco, would be considered for this type of sale. It is our strong belief that we will not be able to realize new jobs through this type of property disposal process. DoD's intention to sell off high value pieces of property on the base will result in a swiss cheese effect, whereby large portions of the base will remain unusable while others will sit without entitlements for years. It is imperative that property disposal be part of a comprehensive local reuse program that not only looks at valuable segments of the base, but at an economically viable plan for the entire property in a way that will create jobs for our community. It is my belief that this priority sales approach contemplated by the Rules conflicts dramatically with President Clinton's assurance, as well as Congressional intent, that local base reuse plans will be the preferred alternative that drives property disposal decisions.

The second related provision has to do with the advertising of so-called readily marketable properties. The Interim Final Rule provides for a six month period for advertising such property for sale to the private sector. We believe that this process will hinder the efforts of the community which is engaged in the base reuse planning process. For example, sales would take place before the community has updated its master plan and planning code to establish uses, heights and development densities, before it has completed the environmental review process mandated by state environmental protection laws and before transportation planning to accommodate new uses can be completed. In the case of Treasure Island, sales would take place even before resolution of difficult questions about the applicability of the Tidelands Trust, which would sharply limit the permissible array of uses. The end result could only be sales at distressed prices to speculators willing to gamble on the outcome. The small amount of revenue

Mr. Robert Bayer
Page 2

August 2, 1994

generated for the Federal fisc by such sales cannot possibly justify the harm done to local communities by these disposition practices. If DoD intends seriously to address the President's mandate to foster "job centered economic development", it must immediately abandon dangerous notions such as "priority high value sales" and "readily marketable properties". By marketing the property up front, the Department of Defense removes the ability of local communities to engage in an orderly transition and reuse process.

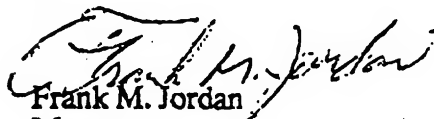
Most importantly, it is our belief that the Department of Defense has lost a valuable opportunity, through the writing of the rules, to redefine the Base Conversion process. The decision making process regarding selecting which property to market, establishing interim leasing policies, personal property distribution and McKinney Act screening, should be a consultative process with the local community. We were heartened by the direction to create local Restoration Advisory Boards that will provide input to the process through the cleanup of the bases. We believe that a similar process could be established for all decision making regarding base conversion and reuse. Perhaps the Department of Defense can create a process where community representatives (through the Community Reuse Committee), local jurisdictions (through the local Reuse Authorities), can sit as an advisory body with federal and state representatives to provide official input to the federal officials who, by law, are vested with final decision making authority. This advisory body can provide input on all base disposal issues, from base reuse to interim leasing proposals. Through this process we could be assured that the concerns raised on the local level are given the weight and consideration in Washington, D.C. that we feel they deserve and that we believe the President intended when he announced his five point plan.

To summarize, it appears as though the Rule, as currently written, will not facilitate the implementation of the cornerstone of the President's five point plan, namely jobs centered property disposal. The Rule will inevitably lead to delays and inefficiencies in the implementation of the conversion process, thereby slowing down the creation of new jobs desperately needed by the communities impacted by base closure.

I have attached more specific comments on the body of the regulations. Larry Florin, our Coordinator of Military Base Conversion, is available to provide additional comments and input into this process.

We look forward to working together to revise the draft guidelines so that they will lead to a transition process better suited to address the economic challenges and opportunities we have and realize the intent of the President's five point plan.

Sincerely,



Frank M. Jordan
Mayor

Attachment

cc: Senator Dianne Feinstein
Senator Barbara Boxer
Congresswoman Nancy Pelosi
Members of San Francisco Board of Supervisors

Office of the Mayor
SAN FRANCISCO



14211
BCJ
FRANK M. JORDAN

August 2, 1994

1108

Mr. Robert Bayer, Deputy Assistant Secretary of Defense
Office of the Assistant Secretary of Defense for Economic
Security
Room 3D854
The Pentagon
Washington, D.C. 20301

Dear Mr. Bayer:

We are writing in reference to the Interim Final Rule ("Rule") regarding the Revitalization of Base Closure Communities as described in 32 CFR Parts 90 and 91. The Rule provides interpretive guidance concerning changes to the base realignment and closure process and establishes policy and procedure, assigns responsibilities and delegates authority under the President's Five-Part Plan - "A Program to Revitalize Base Closure Communities".

This letter presents both general and specific comments regarding the Rule. Each of our respective base closure communities have independently submitted specific recommendations regarding each section within Part 91.7, presented in the format provided by the Department of Defense (DoD) known as "Format for Comments on the Interim Rule".

General Comments

The Rule was intended to assist local communities impacted by base closure in their reuse efforts through rapid redevelopment and job creation. In fact, the first point made in President Clinton's July, 1993 "Five-Part Plan" is "jobs-centered property disposal that puts local economic development first". However, we do not believe that this objective will be achieved based upon the Rule as proposed by DoD.

For the following reasons, we believe the Rule is a misguided effort that would attempt to maximize the revenue accruing to the DoD at the expense of the local community. The local community would bear the costs of providing capital improvements, as well as operations and maintenance of the facilities. The Rule does not address the market realities and tremendous challenges local communities face in converting closed bases and developing the sites for job creation.

First, under the Rule conveyances to local communities for economic development purposes may only take place after the Military Department has had an opportunity to market the preferred properties for their own revenue generation. (Therefore, the remaining properties which might qualify for conveyance are likely to be difficult to market, by definition.) Furthermore, the opportunity to selectively market base property by the Military Department involved can create a "swiss-cheese" scenario where it becomes difficult for the local redevelopment authority to implement a comprehensive reuse plan. The early sales approach for "high value" property would not result in high revenues to the federal government because they do not contain any entitlements or zoning. The local community would have no ability to make sure that economic

development occurs in a timely manner in order to create local jobs. In all likelihood, the policy of promoting early sale and high value properties under these circumstances will delay redevelopment and job creation and further exacerbate the adverse impacts of the base closure on the local community. The rapid turnover of property which is so critical to reuse success, including real estate, personal property and human resources, will not be realized through the implementation of these guidelines.

Second, the timetable which has been proposed in several sections, such as personal property disposition and maintenance and repair of infrastructure, does not coincide with the conversion planning process. In particular, there are references in both of these areas to specific dates (i.e. June 1, 1994 for Personal Property decisions) as well as dates (the earliest of which) would allow the Military Department to reduce their level of maintenance and repair.

Third, the decision-making process regarding the selective marketing of property is primarily unilateral whereby a representative of either DoD or the Military Department chooses which properties to market. While the local jurisdiction is given the opportunity for input and/or are required to be notified of a decision, the opportunity for local needs to truly influence the decision-making process appears to be quite limited. Local jurisdictions need to be given greater input, possibly through Advisory Boards similar to the established Restoration Advisory Boards.

Furthermore, language in Section 91.7 (e) (4) requires the local military authorities to justify, in writing, any conveyance made for less than market value. The obvious implication is that local military authorities will be expected to receive full market value for their properties unless they can justify something less. It is uncertain what would be considered sufficient justification in such a situation. Pryor Act (§ 2903) requires the Secretary to provide an explanation for any below-market conveyance. The regulations should provide guidance for what criteria is to be considered for such conveyances.

Comments and Recommendations (Part 91.7)

a) Jobs-centered Property Disposal.

In Section (d) (3), what precisely is meant by "the completion of the new expedited McKinney Act screening process"? Is it when either "expressions of interest" are filed, full applications are submitted, or when the responses to these applications are released?

There are few criteria attached to the "Expressions of Interest", and no manner of confirming whether they have been made "in good faith" with financial backing. This situation may lead to capricious requests which have no substantial likelihood of coming to fruition. The current language implies that the only evaluation criteria to be used are the subjective evaluations of the credibility of such expressions on the part of DoD.

Recommendation: There should be a panel which evaluates these expressions of interest which should be comprised, in equal part, of representatives of the Military Department and of the local redevelopment authority. The requirement to submit a more substantial application, including a financial commitment (e.g. a good faith deposit) is also recommended.

In any case, the "ready market" definition assumes that offers to purchase at or near the estimated range of fair market value from the private sector covering all or most of the installation could be expected within 6 months of advertising the base for public sale. Several terms within this paragraph need clarification, such as what constitutes "near" fair market value, as well as who conducts the appraisal which determines what fair market value is, and when?

Furthermore, even if this definition of ready market is not met within the allocated 6 months, Section (d) (4) allows the Military Department to continue to withhold "high value property" for sale at market value.

In Section (d) (4) (i) - "The property must have a high value" - requires a clear definition of "high value". Once again, who determines this definition? This is a concern for bases like Treasure Island. There may be some people in DoD who think Treasure Island is high value property, but this fails to consider the costs and realities and implementing a redevelopment plan for the base. High value property is a counter productive concept to reuse.

All of these examples fail to include any balance between DoD needs and local needs. On the contrary, this language creates a scenario whereby the local community is waiting on the sidelines for this process to be completed, by DoD. In Mare Island's case, this process may not be completed until more than 10 months after the Final Reuse Plan has been submitted. If the federal policy to be advanced is job creation for local communities to help them adjust to the impacts of base closures, the Rule entirely misses the mark.

b) Economic Development Conveyances

According to Section (e) (1), these conveyances are only permitted after it is determined that the base, "or significant portion thereof", cannot be sold in accordance with the rapid job creation concept. Who makes this determination and using what criteria?

How would properties be defined (by individual building?) for purposes of advertising for disposal? Who would make such a determination and using what criteria?

Section (e) (1) does state that "the economic development conveyance should be used by local redevelopment authorities to gain control of large areas of the base, not just individual buildings." However, the language of the Rule appears to preclude that approach by giving the Military Department the first opportunity to dispose of individual properties for market value.

Recommendation: As indicated above, we believe that local redevelopment authorities should have control of large areas of the base because they are in the best position to insure that economic development occurs in a way that is compatible with the needs and capacities of the local community. Therefore, restrictions should be placed upon the nature and extent of the properties which may be offered by the Military Department prior to that opportunity being presented to the local community. We further recommend that language be added which would provide allowances for an economic development conveyance to be made for an entire mixed use project, for example, including residential properties.

There are conflicting provisions regarding "high/higher value property" in that, on the one hand, Section (e) (1) refers to the "income received (by the local redevelopment authorities) from some of the higher value property should help offset the maintenance and marketing costs of the less desirable parcels." However, on the other hand, in Section (d) (4) (i) "high value" is one criteria which would enable the Military Department to exempt certain properties from the 6-month "expression of interest" rule regarding economic development conveyances.

In other words, the regulations claim that these higher value properties will allow the local jurisdictions to generate revenue to help absorb the substantial costs of conversion. However, the latter section gives the Military Department a second opportunity to capture that same revenue for themselves. Furthermore, there is no indication that any revenue

captured by the Military Department would be utilized in the facilitation of the conversion process.

DoD is proposing to sell "readily marketable" property without local zoning, without provision for future infrastructure, and without the level of clean up having been ascertained or achieved. The fundamental problem with this approach is that it is impossible to determine true value of property in the absence of these considerations. Therefore, the federal government will not receive potential full market value because such uncertainties will drastically reduce the price that private enterprises are willing to offer for property. In addition, under the current language, it is likely DoD could receive expressions of interest for properties from parties unable to quickly finance job creation. This will only serve to delay the process to an even greater extent, once again resulting in a lack of job creation.

In the case of infrastructure considerations, for instance, the capacity and condition of utility systems on many bases require such a substantial level of improvement that the costs incurred may create a net negative property value. Under these circumstances, these would not truly be "readily marketable". Such factors must be taken into account within these guidelines to reflect more realistic conditions and the difficulties of redeveloping these bases.

Recommendations: The issue of opposing references to "high value properties" must be reconciled. Our recommendation is to delete the language which gives the Military Department an opportunity to extend the 6-month period for "high value properties". We suggest that this approach go one step further by inserting binding language that reflects the spirit of the comments that are mentioned above, from Section (e) (1), regarding the local community's ability to generate revenue from these same type of properties.

The process of determining market value must take into account the costs involved, regardless of ownership, to the local redevelopment authority, particularly with regard to infrastructure. The economic development conveyance price should reflect this "negative value". Language regarding these costs should be inserted into the sections regarding the determination of market value through the appraisal process.

c) Profit Sharing

Property can be conveyed at full market value, at a discount or for no consideration. However, in the latter case, any proceeds ultimately generated from subsequent sale or lease must be split with the Navy, 60/40 (of net profit), if sold or leased within 15 years. However, the definition of net profit is unclear with regard to what would be considered "allocable costs of operation of the local redevelopment authority with regard to that property."

Recommendation: Language requiring the Military Department to share a portion of their net profits from the buildings sold or leased directly by them under the "ready market" provisions should be added, similar to the 60/40 split required on those properties sold or leased by the local redevelopment authority. This would be particularly appropriate in the situation mentioned above where significant infrastructure improvements will be necessary.

An additional recommendation is to define more clearly what costs would be deemed "allocable" under the net profit definition. We recommend that both capital improvement costs as well as operation and maintenance costs and any additional remediation are included among these qualified costs.

d) Personal Property

We would reiterate the comments of the National Association of Installation Developers (NAID) that the interim rules leave this base equipment wide open for wholesale removal.

Control of the personal property process, under current language, will be placed in the hands of the base commander and the major command. The rules allow any federal agency to select equipment without any significant amount of local control or input.

The rules should emphasize DoD cooperation with the community in working out an agreeable list of equipment to be retained or removed.

The criteria listed in the Interim Final Rule are often in potential conflict with each other, such as the lack of direction in Section (h) (5) with regard to the criteria for disposition. For example, neither the word "and" nor the word "or" is used with regard to these criteria.

The linkage of personal property to real property (i.e. can only be transferred with the existing buildings) is unrealistic and inflexible.

The proposed timeline for disposition of personal property also appears to be in direct conflict with the objective in the President's July 2, 1993 policy on using the community's base reuse plan as the basis for property disposal decisions. For example, the language currently indicates that the "personal property not subject to the exemptions listed above shall remain at a closing base until (in the case of Mare Island) one week after the date on which the redevelopment plan is submitted to the applicable Military Department".

Recommendations: This language should be changed to a time frame which is related to the date of closure or transfer of property, whichever is later.

Another recommendation regards the completion of the inventory of personal property by June 1, 1994. This cannot be done properly before the Final Reuse Plan is completed for guidance regarding different types of industries to which the properties will be marketed. It is recommended that this inventory completion date be extended to April 1, 1995.

In Section (h) (4) (iii) - Twenty-four months after the dates referred to in (h) (2) should be June 1, 1996, not November 30, 1995.

Section (h) (5) - We recommend the substitution of "consent of" rather than "notice to" the local redevelopment authority.

The Interim Final Rule is silent on the subject of air emission credits. However, we believe that it is imperative that the local redevelopment authority be allowed to retain these credits for marketing purposes, and this issue should be addressed within these guidelines.

e) Minimum Level of Maintenance and Repair

In Section (i) (2) - the language "...below the minimum levels required to support the use of such facilities or equipment for nonmilitary purposes, except when the Secretary of the Military Department concerned determines that such reduction is in the National Security interest of the United States" - is very broad and open to flexible interpretation.

Recommendation: This exception should be deleted.

This section also makes reference to this requirement remaining in effect until "one of the time periods in paragraph (h) (4) of this section has expired" (see the above section on "Personal Property"). This requirement could expire, under the existing language, one

Memorandum

DATE: March 20, 1995

TO: Blanche Davis, FOIA Reading Room

FROM: Helen F. Forbeck , Base Transition Office
(703) 697-5819

RE: Public Comments on the Economic Development
Conveyance Amendment to the Interim Final Rule
which promulgates guidance required by Section
2903 of the National Defense Authorization Act for
Fiscal Year 1994 -- Revitalizing Base Closure
Communities and Community Assistance

Thank you for your help in making this information readily available to interested parties.
If you have any questions, please do not hesitate to call me.

#632

#01

**FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
FINAL RULE**

Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994

Send comments to: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

Or transmit by electronic mail to: atkinjin@acq.osd.mil

From: City of Oakland, CA - Oaknoll Naval Hospital
(Activity/Location/Community/Installation/Group)

Page #: 53741

Paragraph: 3 of 91.7(f)

Subject: Consideration

Recommended Change or Comment: Paragraph 3 deals with rural area property transfers. These transfers shall be made without consideration.

Recommended Change: Rural Area and some Urban Area property, as defined by this rule. Recommended change expands the definition of rural area to include urban areas that are predominantly residential and contain or abut open space.

Rationale: The Oakland, CA Oaknoll Naval Hospital is in a residentially zoned area of the City. The naval hospital is surrounded by park land open space and residential property. To bring in an industrial or commercial/retail establishment would adversely impact the character of the neighborhood. The Naval Hospital is located in the City of Oakland. The rural character of the neighborhood could justify a no-cost transfer.

Name: Frank Fanelli, ASA
Address: Manager, Real Estate Services
City of Oakland
1330 Broadway, Ste. 1001, Oakland, CA 94612
Phone: (510) 238-3541
Date: December 1, 1994

MARCH JOINT POWERS AUTHORITY

#2

November 16, 1994

Office of the Assistant Secretary of Defense for Economic Security
Room 3D814
The Pentagon
Washington, D.C. 20301-3300

Dear Sirs:

The March Joint Powers Commission, the governing Board for the March Joint Powers Authority, is pleased to offer comments on the revised guidelines for implementing the Pryor Amendment. Our comments are specific to the changes that affect the disposition of surplus federal property at closing or realigning military bases under the authority of an "Economic Development Conveyance" (EDC).

The JPA was provided a format for offering comments. That form has been completed and is included as an attachment to this cover letter.

The Joint Powers Commission is generally supportive of the changes that were released in these amended guidelines. Use of the "Economic Development Conveyance" is likely to be a key strategy for use at March Air Force Base to promote future economic development. These amended guidelines will facilitate those transfers and add reason to the complicated process of establishing value for the surplus properties.

Our Commission is pleased that the Department of Defense paid close attention to our comments on the earlier draft guidelines. We look forward to working closely with the Air Force over the next two years on the transition of March Air Force Base.

Sincerely,



Denise Lanning, Chairwoman
March Joint Powers Commission

DL/SA

FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE
Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994

2-2

From: The March Joint Powers Authority

Page #: 53740
Paragraph: 91.7 (e) (3)
Subject: "Fair Market Value"

Recommended Change or Comment:

Is an "estimate of fair market value" an official appraisal? If so, multiple appraisals should be procured. At the least, the local redevelopment agency should have input into the selection of an appraiser, if that is what is intended. Multiple appraisals could establish the "range of values" desired. Perhaps two certified appraisals should be obtained--one by the DOD Department and one by the LRA.

After the fair market value is determined, that information should be shared with the LRA.

Rationale:

Establishing fair market value is a key step in the economic development conveyance process. The LRA must be comfortable with the established range of values if it is to eventually be responsible for some payment for the property.

The LRA and its members are most knowledgeable of local real estate values and potential demand for the types of properties being offered as an EDC. The LRA should have input to the process of establishing a realistic range of values. If this range is too high, then there is no incentive for the LRA to apply for or accept the transfer.

Stephen Albright, Executive Director
P.O. Box 7480
Moreno Valley, CA 92522

(909) 656-7000
November 16, 1994

2-3

FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE
Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994

From: **The March Joint Powers Authority**

Page #: 53470
Paragraph: 91.7 (e) (6) (iv) (C)
Subject: Elements of a Business/Development Plan

Recommended Change or Comment:

Is the purpose of this paragraph to demonstrate the capability of the LRA or to establish costs associated with the development of the EDC parcel? If the latter is partially the case, then all costs should be demonstrated that would affect the net value of the parcel for establishing a repayment price. All costs should include the planning and construction of infrastructure, marketing of the project, holding costs to the LRA (maintenance, management, etc.), and reasonable other costs associated with improvements or use of the property.

It should be clarified that these costs may bring the net value of an EDC to zero or below. This potential should be acknowledged in the guidelines.

Rationale:

An Economic Development Conveyance is being facilitated for the creation of jobs and associated economic activity to replace the lost military infusion to the local economy. There are costs to this replacement effort. These costs can be documented, and they should be credited to the LRA's liability of repayment for the EDC.

Stephen Albright, Executive Director
P.O. Box 7480
Moreno Valley, CA 92522

(909) 656-7000
November 16, 1994

2-4

FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE
Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994

From: The March Joint Powers Authority

Page #: 53735-53741
Paragraph: All
Subject: General Support

Recommended Change or Comment:

The March Joint Powers Commission (MJPC) generally supports the changes made with the published amended guidelines. The DOD clearly heard and understood the message delivered by local redevelopment authorities: reuse challenges will be difficult, and the economic development conveyance process should not add to those difficulties. If the DOD is to support local efforts at replacing jobs and lost economic activity, then it needs to do everything possible to simplify the process of transferring properties and facilities for economic development purposes.

Rationale:

The MJPC commented on the draft guidelines earlier this year. The DOD was responsive in attempting to improve the economic development conveyance process.

Stephen Albright, Executive Director
P.O. Box 7480
Moreno Valley, CA 92522

(909) 656-7000
November 16, 1994

(x) Compliance with applicable Federal, State, and local laws and regulations.

(f) *Consideration.*

(1) For conveyances made pursuant to section 91.7(e), *Economic Development Conveyances*, the Secretary of the Military Department will review the application for an EDC and negotiate the terms and conditions of each transaction with the LRA. The Military Departments will have the discretion and flexibility to enter into agreements that specify the form, amount, and payment schedule. The consideration may be at or below the estimated fair market value, with or without initial payment, in cash or in-kind and paid over time. An EDC must be one of the two following types of agreements:

(i) Consideration within the estimated range of present fair market value, as determined by the Secretary of the Military Department. Payments must be made to ensure consideration is within the estimated range of fair market value at the time of application.

(ii) Consideration can be below the estimated range of fair market value, when proper justification is provided. The amount of consideration can be below the estimated range of fair market value, if the Secretary of the Military Department determines that a discount is necessary for economic redevelopment and job creation.

(2) The amount of consideration paid in the future shall equal the present value of the agreed-upon fair market value or discounted fair market value. Additional provisions may be incorporated in the conveyance documents to protect the Department's interest in obtaining the agreed upon consideration. Also, the standard CSA excess profits clause, appropriately tailored to the transaction, will be used in the conveyance documents to the LRA.

(3) In a rural area, as defined by this rule, any EDC approved by the Secretary of the Military Department shall be made without consideration when the base closure will have a substantial adverse impact on the economy of the communities in the vicinity of the installation and on the prospect for their economic recovery. The Secretary of the Military Department concerned will determine if these two conditions are met based on all the information considered in the application for an Economic Development Conveyance. Specific attention will be placed on the business and development plan submitted as part of the EDC application

and the criteria listed in section 91.7(c)(8) will be used.

(4) In those instances in which an EDC is made for consideration below the range of the estimated present fair market value of the property—or if the estimated fair market value is expressed as a range of values, below the lowest value in that range—the Military Department shall prepare a written explanation why the estimated fair market value was not obtained. Additionally, the Military Departments must prepare a written statement explaining why other Federal property transfer authorities could not be used to generate economic redevelopment and job creation.

Dated: October 20, 1994.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 94-26504 Filed 10-25-94; 8:45 am]

BILLING CODE 5000-04-M

participated consideration from the transfer.

- Compliance with applicable Federal, State, and local laws and regulations.

- What are the guidelines for determining the terms and conditions of consideration?

- The individual circumstances of each community and each base mean that the amount and type of consideration may vary from base to base. This amendment gives greater discretion and flexibility to the Military Departments to negotiate with the LRA to arrive at an appropriate arrangement. Due to the circumstances of a particular site, the base's value may be high or low, and the range of the estimated present fair market value may be broad or narrow. Where there is value, the Department of Defense has an obligation under Title XXIX of the National Defense Authorization Act for FY 1994 to obtain consideration within the estimated range of present fair market value, or to justify why such consideration was not realized.

- Taking into account all information provided in the EDC application and any additional information considered relevant, the Military Department will contract for or prepare an estimate of the fair market value of the property, which may be expressed as a range of values. The Military Department shall consult with the LRA on valuation assumptions, guidelines and on instructions given to the person(s) making the estimation of value.

- As stated above, the EDC application must contain a statement that proposes general terms and conditions of the conveyance, as well as the amount and type of the consideration, a payment schedule, and projected date of conveyance. After reviewing the application, the Military Department has the discretion and flexibility to enter into one of two types of agreements:

1. *Consideration within the estimated range of present fair market value, as determined by the Secretary of the Military Department.* The Military Department can be flexible about the terms and conditions of payment, and can provide financing on the property. The payment can be in cash or in-kind, and can be paid at time of transfer or at a time in the future. The Military Departments will have the discretion and flexibility to enter into agreements that specify the form and amount of consideration and ensures that consideration is within the estimated range of fair market value at the time of application. Such methods of payment could include: participation in the gross

or net cash flow, deferred payments, mortgages or other financing arrangements.

2. *Consideration below the estimated range of fair market value, where proper justification is provided:* If a discount is found by the Secretary of the Military Department to be necessary to foster local economic redevelopment and job creation, the amount of consideration can be below the estimated range of fair market value. Again, the terms and conditions of payment will be negotiated between the Military Department and the LRA.

- (a). *Justification.* Proper justification for a discount shall be based upon the findings in the business and development plan contained in the EDC application.

Development economics, including absorption schedules and legitimate infrastructure costs, would provide a basis for such justification. The ability to pay at time of conveyance or to obtain financing would not be a proper justification, since payment terms and conditions can be negotiated.

- In negotiating the terms and conditions of consideration with the LRA, the Secretary of the Military Department must determine that a fair and reasonable compensation to the Federal Government will be realized from the EDC. Where property is transferred under an EDC at an amount less than the estimated range of fair market value, the Military Department shall prepare a written explanation of why the consideration was less than the estimated range of present fair market value.

D. Executive Order 12866

It has been determined that these amendments are a significant regulatory action. The amendments to the rule raise novel policy issues arising out of the President's priorities.

E. Regulatory Flexibility Act

This rule amendment is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the amendment will not have a significant economic impact on a substantial number of small entities. The primary effect of this amendment will be to reduce the burden on local communities of the Government's property disposal process at closing military installations and to accelerate the economic recovery of the relatively small number of communities that will be affected by the closure of nearby military installations.

F. Paperwork Reduction Act

The Rule amendment is not subject to the Paper Reduction Act because it

imposes no obligatory information requirements beyond internal DoD use.

List of Subjects in 32 CFR Parts 90 and 91

Community development, Government employees, Military personnel, Surplus Government property.

PART 90—REVITALIZING BASE CLOSURE COMMUNITIES

1. The authority citation for 32 CFR part 90 continues to read as follows:

Authority: 10 U.S.C. 2687 note.

§ 90.4 [Removed and Reserved]

2. Section 90.4(a)(1)(iii) is removed and reserved.

3. Section 90.4(b) is revised to read as follows:

§ 90.4 Policy.

(b) In implementing Title XXIX of Public Law 103-160, it is DoD policy to convey property to a Local Redevelopment Authority (LRA) to help foster economic development and job creation when other federal property disposal options cannot achieve such objectives. Conveyances to the LRA will be made under terms and conditions designed to facilitate local economic redevelopment and job creation, and may be made at less than fair market value, with proper justification.

PART 91—REVITALIZING BASE CLOSURE COMMUNITIES—BASE CLOSURE COMMUNITY ASSISTANCE

4. The authority citation for part 91 continues to read as follows:

Authority: 10 U.S.C. 2687 note.

4A. Section 91.4 is revised to read as follows:

§ 91.4 Policy.

It is DoD policy to convey property to a Local Redevelopment Authority (LRA) to help foster economic development and job creation when other federal property disposal options cannot achieve such objectives. Conveyances to the LRA will be made under terms and conditions designed to facilitate local economic redevelopment and job creation, and may be made at less than fair market value, with property justification. This regulation does not create any rights and remedies and may not be relied upon by any person, organization, or other entity to allege a denial of any rights or remedies other than those provided by Pub. L. 103-160, Title XXIX.

sales at fair market value to public entities for public purposes or direct sales through a public bid process.

The EDC should be used when the LRA wants to obtain property for job generating purposes and it is not

practicable to pay fair market value at the time of transfer. However, the EDC is not intended to supplant other Federal property disposal authorities and cannot be used if the intended land use can be accomplished through

another authority unless unusual circumstances are presented that demonstrate that the needed economic development and job generation cannot occur under the other allowable federal transfer authority.

SURPLUS FEDERAL PROPERTY TRANSFER METHODS AVAILABLE TO LRAS

Type of property, purpose, or method	Transfer type ¹	Federal agency with authority	FMV discount	Statutory and regulatory authority
Public Airport Conveyance	Approved	Federal Aviation Administration	100%	49 U.S.C. §§ 47151-47153, 41 CFR 101-47.308-2
Public Benefit Conveyance Categories:				
Historic Monument	Approved	Department of the Interior	100%	FPASA § 203(k)(3), 41 CFR 101-47.308-3
Education	Sponsored	Department of Education	Up to 100%	FPASA § 203(k)(1), 41 CFR 101-47.308-4
Public Health	Sponsored	Department of Health and Human Services	Up to 100%	FPASA § 203(k)(1), 41 CFR 101-47.308-4
Public Park or Recreation	Sponsored	Department of the Interior	Up to 100%	FPASA § 203(k)(2), 41 CFR 101-47.308-7
Non-Federal Correctional Facility	Approved	Department of Justice	100%	FPASA § 203(p)(1), 41 CFR 101-47.308-9
Port Facility	Sponsored	Department of Transportation	100%	FPASA § 203(q)
Shrines, Memorials, or Religious Uses [only as part of another public benefit conveyance] ²	Sponsored	Department of Education or Department of Health and Human Services	Up to 100%	41 CFR 101-47.308-5
Homeless Assistance [Public Health] ³	Sponsored	Department of Health and Human Services	Up to 100%	42 U.S.C. § 11411, FPASA § 203(k)
Other Specific Conveyance Categories:				
Power Transmission Lines	Approved	Military Department	None	SPA § 13(d), 41 CFR 101-47.308-1
Housing for Displaced Persons	Requested ⁴	Military Department	Up to 100%	URARPAPA § 218, 41 CFR 101-47.308-8
Wildlife Conservation	Approved	Department of the Interior	Up to 100%	16 U.S.C. § 667b-d
Federal-Aid or Other Highways [to States]	Sponsored	Department of Transportation	100%	23 U.S.C. §§ 107, 317
Widening of Public Highways or Streets	Approved	Military Department	Up to 100%	40 U.S.C. § 345c
Negotiated Sale	Sale	Military Department	None	FPASA § 203(e), 41 CFR 101-47.304
Public Sale	Sale	Military Department	None	FPASA § 203(e), 41 CFR 101-47.304
Economic Development Conveyance	Approved	Military Department	Up to 100%	NDAA 94, Title XXIX, § 2903

¹ Public benefit and other specific conveyances are typically either approved or sponsored by the authorized Federal agency. In approved transfers, the Federal agency must grant its approval but property conveyance is accomplished by the Military Department. In sponsored transfers, the Military Department assigns the property to the Federal agency, upon request, and the Federal agency is responsible for conveyance of the property to its recipient.

² Property for shrines, memorials or other religious purposes is eligible for public benefit conveyance (PBC) only as part of a parcel transferred under another PBC mechanism.

³ 42 U.S.C. § 11411 designates uses for homeless assistance as a specific public health category under FPASA § 203(k) and gives priority to such uses when considering PBCs.

⁴ When the activities of a Federal agency result in the displacement of persons from their housing, the Federal agency may request surplus property for replacement housing. Transfer of property is directly from the Military Department to an eligible State agency.

ACRONYMS

CFR Code of Federal Regulations

FMV Fair Market Value

FPASA Federal Property and Administrative Services Act, 40 U.S.C. § 483 et seq.

LRA Local Redevelopment Authority

NDAA 94 National Defense Authorization Act for Fiscal Year 1994, P.L. 103-160

SPA Surplus Property Act, 50 U.S.C. App. § 1622(d) and 49 U.S.C. §§ 47151-47153

U.S.C. United States Code

URARPAPA Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

• Who Can Receive an Economic Development Conveyance?

An LRA is the only entity eligible to receive property under an Economic

Development Conveyance. An LRA should have broad-based membership, including, but not limited to, representatives from those jurisdictions

with zoning authority over the property. The Secretary of Defense shall officially recognize an LRA for planning and/or implementation through the Office of

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 90 and 91

RINs 0790-AF61 and 0790-AF62

Revitalizing Base Closure
Communities and Community
Assistance

AGENCY: Department of Defense, DoD.

ACTION: Interim final rule; amendments.

SUMMARY: The interim final rule amendment promulgates guidance required by Section 2903 of the National Defense Authorization Act for Fiscal Year 1994. This guidance clarifies the application process and the criteria that will be used to evaluate an application for property under this section.

DATES: This document is effective October 26, 1994. Any pending written request for economic development

*Proposed
Amend
Interim
Final
Oct 1994*

FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
FINAL RULE

Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994

Send comments to: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

Or transmit by electronic mail to: atkinjn@acq.osd.mil

From: _____
(Activity/Location/Community/Installation/Group)

Page #: _____

Paragraph: _____

Subject: _____

Recommended Change or Comment:

Rationale:

Name:

Address:

Phone:

Date:



DEPARTMENT OF THE AIR FORCE
AIR FORCE BASE CONVERSION AGENCY

#3

15 Nov 94

MEMORANDUM FOR OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
FOR ECONOMIC SECURITY
3D814, The Pentagon
Washington DC 20301-3300

FROM: AFBCA/SPE
305 S. Tippecanoe Ave
Norton AFB
San Bernardino CA 92408

SUBJECT: Comments on the Amendment to the Interim Final Rule

Page: 53736

Paragraph: C.

Subject: DISCUSSION

COMMENT: The new interim rule as written states the "...amount of consideration paid in the future shall equal the present value of the agreed upon fair market value." Does the term "consideration paid in the future equal to the present value" mean that which is paid in the future does not contain an inflation factor?

Page: 53737 & 53740

Paragraph: WHO CAN RECEIVE AN ECONOMIC DEVELOPMENT
CONVEYANCE?

COMMENT: Air Force written policy provides equal rights for both the community and local indian tribes to enter into negotiated sales transactions. The Pryor Amendment provides rights to only an LRA "with zoning authority." This denies indian tribes rights to an EDC which are given to local communities. Legal representatives for several tribes are concerned and are posturing to take action to obtain these rights.

RECOMMENDATION: To enable the government to provide these rights to the tribes, yet preclude a situation which could culminate in a stand-off between the community and the tribe, the amendment should include language which would allow a local LRA to pass property to a local tribe on the same terms as offered to the LRA--once agreement between the two entities is reached. Only one EDC would be written. If not addressed in current legislation, I foresee litigation at many locations which will ultimately slow transfer of property. Allowing pass-through rather than separate EDCs to the tribes may help to eliminate the possibility of both entities vying (and ultimately litigating) for the same property. This arrangement would foster a working rather than adversarial relationship.

Page: 53739 (first column)

Issue: Expressing fair market value in a "range of values."

Background: Appraisals defined as a range of values will give rise to the practice of always offering the property at the lower end of the range. (Especially in view of the move toward sharing appraisals.)

RECOMMENDATION: Rather than establish a range, recommend we continue with the current practice of defining fair market value, but negotiators should be given broader flexibility in defining the final price. Example: If the LRA has a separate appraisal which is much lower, the negotiator can recommend (based on some good rationale) a lower "contract" price. A second option would be to have the LRA and government agree to use the same appraiser. That appraisal would then define the accepted contract price.



PATRICIA A. WARREN

Site Manager

Norton Operating Location

Air Force Base Conversion Agency



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

TOOELE ARMY DEPOT
TOOELE, UTAH 84074-5000

#4



SDSTE-PWE-E (405-90)

21 November 1994

MEMORANDUM FOR Office of the Assistant Secretary of Defense for
Economic Security, Room 3D814, The Pentagon,
Washington, D.C. 20301-3300

SUBJECT: Interim Final Rule; Amendments

1. The changes to the interim rule will streamline the process for future base closures. However, depending on where an installation is in the closing process, they could, in fact, hinder the closing process.

2. Some installations could be forced to reconsider issues that had previously been settled. An allowance for "Grandfathering" an installation that is well into the closing process should be considered.

FOR THE COMMANDER:

RODGER G. OLSON
Director of Public Works

**AMERICAN
SOCIETY OF
APPRAISERS**



#5

INTERNATIONAL HEADQUARTERS • P.O. Box 17265, Washington, D.C. 20041 • (703) 478-2228 • Fax (703) 742-8471

Richard A. Kaufman, ASA
President
VALPOINT, Inc.
380 S.E. Spokane St., Ste. 100
Portland, OR 97202
(503) 235-2159
FAX (503) 235-3624

Max G. Koeper, ASA
Senior Vice President
Deloitte & Touche
1000 Wilshire Blvd., Ste. 1500
Los Angeles, CA 90017-2472
(213) 688-4171
FAX (213) 688-5440

Richard A. Southern, ASA
Vice President
Community Development Div.
1200 N. Telegraph Road
Pontiac, MI 48341-0414
(313) 858-5309
FAX (313) 858-1080

John E. Bakken, ASA
Vice President
Business Appraisal Associates
2777 S. Colorado Blvd., #200
Denver, CO 80222
(303) 758-8818
FAX (303) 758-6164

James T. Job, ASA
Treasurer
Job Real Estate Appraisal
6306 Walnut Street
Kansas City, MO 64113-2314
(816) 333-7650
FAX (816) 363-8009

Richard-Raymond Alasko, ASA
Secretary
The Alasko Company
360 North Michigan Ave., #803
Chicago, IL 60601-3802
(312) 750-1818
FAX (312) 704-0448

William C. Middlebrook, ASA
Past President
3207-23 Shamrock E.
Tallahassee, FL 32308-2856
(904) 668-2374
FAX (904) 668-2522

Claire H. Donias, ASA
Past President
Arthur Andersen & Co.
633 West 5th Street
Los Angeles, CA 90071
(213) 614-6524
FAX (213) 614-8439

November 4, 1994

Office of the Assistant Secretary of Defense
for Economic Security, Room 3D814
The Pentagon
Washington, D.C. 20301-3300

RE: Amendment to Interim Final Rule (Sections 91.7(d) (e) & (f) of 32
CFR Parts 90 and 91, Revitalizing Base Closure Communities and
Community Assistance

Thank you for providing the American Society of Appraisers (ASA) the
opportunity to review and comment upon the amended portions of 32 CFR
Parts 90 and 91 pertaining to the base closure procedure.

On behalf of the American Society of Appraisers, I would like to highlight
one aspect of the interim final rule and its amended sections that continues
to be of great importance to professional appraisers and should be
important to any government agency with stewardship responsibilities.

The Department of Defense is a member of the Federal Interagency Real
Property Appraisal Committee (FIRPAC) and, as such, subscribes to the
Uniform Standards of Professional Appraisal Practice (USPAP) as
promulgated by The Appraisal Foundation. Yet no mention is made in
either the amended or original versions of the interim final rule regarding
existing appraisal standards or any requirement for appraisals to adhere to
USPAP.

This is particularly disturbing in light of the fact that other agencies of the
government appropriately follow existing legislation addressing appraisal
requirements. Section 1101 of Title XI, Financial Institutions Reform,
Recovery, and Enforcement Act of 1989, requires that federally related
real estate appraisals be performed "...in accordance with uniform
standards, by individuals whose competency has been demonstrated and
whose professional conduct will be subject to effective supervision."

Section 1102 of Title XI further established an Appraisal Subcommittee
and specified certain responsibilities of the Appraisal Subcommittee which
include "...shall monitor and review the practices, procedures, activities,
and organizational structure of the Appraisal Foundation." The Appraisal
Foundation is a not-for-profit educational foundation established in 1987.

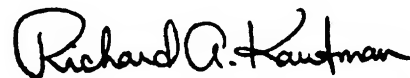
to promote uniformity and professionalism in appraising. The Appraisal Standards Board, a subset of the Appraisal Foundation, develops, interprets, and amends the Uniform Standards of Professional Appraisal Practice (USPAP), the generally accepted standards for the appraisal profession. The American Society of Appraisers is a sponsoring organization of the Appraisal Foundation and, in response to a Congressional mandate, helped establish uniform qualifications criteria for professional appraisers and standards for appraisal work, and requires its members to comply with USPAP. Consequently, the omission of any reference to USPAP in the interim final rule or the amended sections of that rule is of significant concern and should be corrected.

Accordingly, it is strongly recommend that a paragraph such as the following be placed at the outset of the Interim Final Rule:

“Appraisals - All property appraisals will be performed in accordance with uniform standards by individuals whose competency has been demonstrated and whose professional conduct is in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), as maintained by the Appraisal Foundation. Further, appraisal requirements will be differentiated according to property type, i.e., real property, personal property, business valuation, machinery and technical specialties, etc., and appraisals will be performed only by appraisers qualified in the appropriate valuation specialty.”

Again, thank you for allowing the American Society of Appraisers the opportunity to review and comment upon the amended interim final rule. I, as well as other representatives of the American Society of Appraisers, remain available, if necessary, to meet with DoD officials to further discuss our society's concerns. I look forward to your response.

Sincerely,

A handwritten signature in black ink that reads "Richard A. Kaufman". The signature is written in a cursive, flowing style.

Richard A. Kaufman, ASA
International President

cc: ASA Executive Committee,
ASA Discipline Chairmen



#6

City of Orlando

OFFICE OF LEGAL AFFAIRS

400 SOUTH ORANGE AVENUE
ORLANDO, FLORIDA
32801

(407) 246-2295
FAX: (407) 246-2854

POST OFFICE DRAWER 1151
ORLANDO, FLORIDA
32802

December 15, 1994

Office of the Assistant Secretary
of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-8000

VIA FEDERAL EXPRESS

**RE: COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL
RULE AMENDING SECTIONS 91.7 (d) (e) & (f) OF
THE INTERIM FINAL RULE PUBLISHED APRIL 6, 1994**

Dear Sir or Madam:

Enclosed for your consideration are comments from the City of Orlando in regards to the Interim Final Rule Amending Sections 91.7 (d) (e) & (f) of the Interim Final Rule Published April 6, 1994. The City is the Local Redevelopment Authority affected by the closure of the Naval Training Center Facility in Orlando.

We have focused our comments on four (4) sections of the Rules:

Paragraphs 90.4, 91.4, 91.7	:	Term "Fair Market Value"
Paragraph 91.7 (e) (2)	:	Use of Economic Development Conveyance
Paragraph 91.7 (e) (3)	:	Infrastructure Improvements as Part of Estimated Fair Market Value
Paragraph 91.7 (e) (7)	:	Review by Other Agencies
Paragraph 91.7 (e) (8) (viii)	:	Deletion of Noted Paragraph

Letter to the Assistant Secretary of
Defense for Economic Security
December 15, 1994
Page 2

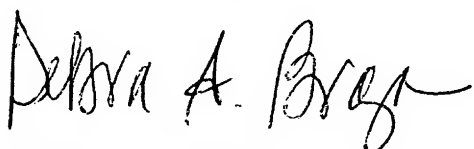
The City is very interested in the outcome of these Rules, and therefore requests that we be given specific notice of any public meetings or hearings in which the Rules will be discussed.

Notice should be sent to:

Mr. Herb Smetheram
Executive Director
Naval Training Center Base Re-Use Commission
City of Orlando
400 South Orange Ave.
Orlando, Florida 32801

If you have any questions in regards to our comments, please contact either Mr. Smetheram at (407) 246-3093 or myself at (407) 246-3479. Thank you for your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Debra A. Braga". The signature is fluid and cursive, with the first name "Debra" being more prominent than the last name "Braga".

Debra A. Braga
Assistant City Attorney

Enc.

cc: Mayor Glenda E. Hood
Members of the Orlando City Council
Herb Smetheram, Executive Director
Captain Tom Lagomarsino, USN, Commander,
Naval Training Center, Orlando, FL.
President, National Assn. of Installation Developers (NAID)



6-1

City of Orlando

PLANNING AND DEVELOPMENT DEPARTMENT
400 SOUTH ORANGE AVENUE
ORLANDO, FLORIDA 32801-3302

REUSE PROJECT
NAVAL TRAINING CENTER

(407) 246-3093
FAX (407) 246-2895

COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE AMENDING SECTIONS 91.7(d) (e) & (f) OF THE INTERIM FINAL RULE PUBLISHED APRIL 6, 1994

TO: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

FR: City of Orlando, Florida

RE: Closure of Naval Training Center Installation, Orlando, Florida

Page #: 53739, 53740
Paragraph: 90.4, 91.4, 91.7
Subject: Term "Fair Market Value"


Recommended Changes:

§90.4, §91.4, §91.7 - There needs to be consistency in the use of the term "fair market value". Throughout the above-referenced sections, fair market value is sometimes referred to as "estimated", sometimes as "present", and sometimes with no modifier. From the City's perspective, we would prefer the use of the term "present fair market value" be used consistently throughout the policy.

Rationale:

The use of "present fair market value" expresses the realization that Base property currently needs additional work to bring it up to a marketable condition.

CITY OF ORLANDO, FLORIDA
400 South Orange Avenue
Orlando, Florida 32801


Herbert Smetheram

Title: Executive Director, Naval Training
Center Base Re-Use Commission

DATE: 12/15/92



6-2

City of Orlando

PLANNING AND DEVELOPMENT DEPARTMENT
400 SOUTH ORANGE AVENUE
ORLANDO, FLORIDA 32801-3302

REUSE PROJECT
NAVAL TRAINING CENTER

(407) 246-3093
FAX (407) 246-2895

COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE AMENDING SECTIONS 91.7(d) (e) & (f) OF THE INTERIM FINAL RULE PUBLISHED APRIL 6, 1994

TO: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

FR: City of Orlando, Florida

RE: Closure of Naval Training Center Installation, Orlando, Florida

Page #: 53740
Paragraph: 91.7 (e) (8) (viii)
Subject: Deletion of Noted Paragraph

Recommended Changes:

§91.7, Paragraph (e) (8) (viii) should be deleted.

Rationale:

This section should be deleted in its entirety as the Local Redevelopment Plan is the preferred alternative, and there should be no overall military department disposal plan for the installation.

CITY OF ORLANDO, FLORIDA
400 South Orange Avenue
Orlando, Florida 32801


Herbert Smetheram

Title: Executive Director, Naval Training
Center Base Re-Use Commission

DATE: 12/15/94



6-3

City of Orlando

PLANNING AND DEVELOPMENT DEPARTMENT
400 SOUTH ORANGE AVENUE
ORLANDO, FLORIDA 32801-3302

REUSE PROJECT
NAVAL TRAINING CENTER

(407) 246-3093
FAX (407) 246-2895

COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE AMENDING SECTIONS 91.7(d) (e) & (f) OF THE INTERIM FINAL RULE PUBLISHED APRIL 6, 1994

TO: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

FR: City of Orlando, Florida

RE: Closure of Naval Training Center Installation, Orlando, Florida

Page #: 53740
Paragraph: 91.7 (e) (7)
Subject: Review By Other Agencies

Recommended Changes:

§91.7, Paragraph (e) (7) - The second sentence of this section should be revised to add the following:

The military department may also consider information independent of the application, such as views of the Director of the Department of Defense (DOD) Base Transition Office, the local Base Transition Officer, and the Director of Economic Adjustment, as well as other Federal agencies, appraisals, caretaker costs and other relevant material.

Rationale:

The Base Transition Office and the local Base Transition Officer, as well as the Director of Economic Adjustment can provide additional relevant information, and should be considered under this paragraph.

CITY OF ORLANDO, FLORIDA
400 South Orange Avenue
Orlando, Florida 32801


Herbert Smetheram

Title: Executive Director, Naval Training
Center Base Re-Use Commission

DATE: 12/15/94



6-4

City of Orlando

PLANNING AND DEVELOPMENT DEPARTMENT
400 SOUTH ORANGE AVENUE
ORLANDO, FLORIDA 32801-3302

(407) 246-3093
FAX (407) 246-2895

REUSE PROJECT
NAVAL TRAINING CENTER

COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE AMENDING SECTIONS 91.7(d) (e) & (f) OF THE INTERIM FINAL RULE PUBLISHED APRIL 6, 1994

TO: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

FR: City of Orlando, Florida

RE: Closure of Naval Training Center Installation, Orlando, Florida

Page #: 53740
Paragraph: 91.7 (e) (3)
Subject: Infrastructure Improvements as Part of Estimated Fair Market Value

Recommended Changes:

The City would request that at §91.7 (e) (3) that such infrastructure and maintenance costs be specifically included in arriving at the fair market value of the property. The City recommends that Paragraph 91.7 (e) (e) be modified as follows:

Before making an EDC, the military department must prepare an estimate of the present fair market value of the property, which may be expressed as a range of values. The military department shall consult with the local redevelopment authority on valuation assumptions, guidelines on instructions given to the persons making the estimation of value, but shall be fully responsible for completion of the valuation. Costs relating to required infrastructure improvements, including, but not limited to, required road and pedestrian improvements, wastewater and stormwater improvements, demolition costs, and other related expenses shall be specifically included and allowed as a deduction to the estimate of present fair market value.

**Comments on the Amendment
to the Interim Final Rule
Sections 91.7 (e) (3)
Infrastructure Improvements as Part of Estimated Fair Market Value**

Page 2 of 2

Rationale:

It should be noted that arriving at an estimated present fair market value for the property will be one of the most difficult tasks faced in the reuse of bases. The City's concern is that we face substantial costs for required infrastructure improvements, including, but not limited to, road improvements, demolition costs, sewer improvements, renovation of existing buildings to bring them up to current codes, as well as maintenance expenses, all of which are expenses and costs which the City must pay before receiving any income from property sales. It is, therefore, imperative that such upfront, out-of-pocket expenses be considered in the evaluation of the "estimated fair market value of the property".

CITY OF ORLANDO, FLORIDA
400 South Orange Avenue
Orlando, Florida 32801



Herbert Smetheram

Title: Executive Director, Naval Training
Center Base Re-Use Commission

DATE: 12/15/94



6-6

City of Orlando

PLANNING AND DEVELOPMENT DEPARTMENT
400 SOUTH ORANGE AVENUE
ORLANDO, FLORIDA 32801-3302

REUSE PROJECT
NAVAL TRAINING CENTER

(407) 246-3093
FAX (407) 246-2895

COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE AMENDING SECTIONS 91.7(d) (e) & (f) OF THE INTERIM FINAL RULE PUBLISHED APRIL 6, 1994

TO: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

FR: City of Orlando, Florida

RE: Closure of Naval Training Center Installation, Orlando, Florida

Page #: 53740

Paragraph: 91.7 (e) (2)

Subject: Use of Economic Development Conveyance

Recommended Changes:

§91.7, Paragraph (e) (2) - A statement provided in the supplementary information of the policy should be included within the policy itself. At Volume 59, Number 206, of the Federal Register at Page 53738, Column 1, the following statement is made in response to the question, "How Much Property Should Be Included In An Economic Development Conveyance (EDC) Application?"

Response - The EDC should be used by Local Redevelopment Authorities (LRAs) to obtain large parcels of the Base rather than merely individual buildings. The income received from some of the higher value property should be used to offset the maintenance and marketing costs of the less desirable parcels. In order for this conveyance to spur redevelopment, large parcels must be used to provide an income stream to assist the long term development of the property.

This statement should be included in the policy itself. The City recommends that the policy be included at §91.7 (e) (2). That section would then read:

The EDC should only be used when other Federal property disposal authorities for the intended land use cannot be used to accomplish the necessary economic redevelopment. The EDC should be used by LRA's to obtain large parcels of the Base rather than merely individual buildings. The income received from some of the higher value property should be used to offset the maintenance and marketing costs of the less desirable parcels. In order for this conveyance to spur redevelopment, large parcels must be used to provide an income stream to assist the long term development of the property.

**Comments on the Amendment
to the Interim Final Rule
Sections 91.7 (e) (2)
Use of Economic Development Conveyance**

Page 2 of 2

Rationale:

The statement included in the supplementary information is a good explanation, and should be included in the policy itself.

CITY OF ORLANDO, FLORIDA
400 South Orange Avenue
Orlando, Florida 32801



Herbert Smetheram

Title: Executive Director, Naval Training
Center Base Re-Use Commission

DATE: 12/15/94



Southern California Edison Company

P. O. BOX 800

2244 WALNUT GROVE AVENUE

ROSEMEAD, CALIFORNIA 91770

J. MICHAEL MENDEZ
VICE PRESIDENT

TELEPHONE
818-302-2286

December 16, 1994

VIA FEDERAL EXPRESS

Office of the Assistant Secretary of Defense
for Economic Security
Room 3D814, The Pentagon
Washington, D.C. 20301

Re: Interim Rule Amendments--Military Base
Closures and Realignments

Ladies and Gentlemen:

Effective October 26, 1994, the Department of Defense (the "DOD") issued amendments to an interim final rule (as amended, the "Rule"), 59 Fed. Reg. 53,735 (1994) (to be codified at 32 C.F.R. Parts 90, 91), implementing Title XXIX of the National Defense Authorization Act for Fiscal Year 1994. The Rule is open for public comment until December 27, 1994. Southern California Edison Company, a public utility company primarily engaged in the business of supplying electric energy in central and southern California, hereby submits the following comments.

The Rule prescribes the process by which a local redevelopment agency ("LRA") can acquire base properties through an economic development conveyance ("EDC"). However, the EDC evaluation process does not recognize or address the unique characteristics of utility infrastructure.

The "market test" to determine whether immediate private development of base properties is possible has been eliminated as a precondition to an EDC. The DOD states that a "market test" is "unlikely to be fruitful **unless and until the local community provides the necessary . . . infrastructure for . . . public utilities . . .**" (emphasis added, *Id.* at 53736). This statement presumes that the LRA will provide the utility infrastructure. However, disposing of the utility systems to a LRA through an EDC may not be in the best interests of the local citizens or the federal taxpayers. To achieve the goals of the base closure laws, and to best serve the community and the interests of the federal taxpayers, the

criteria and factors used to evaluate EDC applications should require consideration of private market conditions for disposition of the utility systems.

Indeed, the quality of the utility systems and their operating reliability are factors considered by investors in business enterprises that could provide rapid job creation. The utility companies which provide service to the local residents (the "Utility Companies") have attributes which often make them the best candidates for the most effective use of the base systems including:

- reliability of the systems and service (both during normal operations and in disasters);
- years of expertise in managing utility systems resulting in a demonstrated high quality management and level of service;
- an existing inventory of specialized materials and equipment;
- the achievement of significant economic efficiencies for customers (e.g., larger purchasing power and centralized customer service);
- a sufficient, experienced staff; and,
- the availability of resources to take advantage of technological improvements and to optimize performance.

Additionally, if Utility Companies purchase utility systems for fair market value, the federal taxpayers will realize an immediate and assured return on property for which they originally paid as opposed to a delayed or potentially no or smaller return when property is conveyed as an EDC.

To assure a smooth transition to the reuse of all other base assets and to help fulfill the goal of rapid redevelopment through the most effective reuse of such assets, it is critical that a reliable, high quality utility infrastructure be in operation, and the disposal of the infrastructure must occur early in the base closure process. The utility systems represent integrated assets for which a private market may not only exist but for which a private entity may be the best candidate to acquire the systems. To assure that an EDC is the best course of action for all affected parties, the evaluation process should require consideration of private market conditions for the utility infrastructure and should encourage early and ongoing consultation with the Utility Companies by the various Military Departments to make these determinations.

Office of the Assistant Secretary of Defense
for Economic Security
December 16, 1994
Page 3

If you have any comments or questions with regard to the above points, please feel free to contact Ms. Paige White at 2244 Walnut Grove Avenue, Law Department, Rosemead, California 91770, or by phone at (818) 302-1577.

Respectfully submitted,


J. Michael Mendez

8

**FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
FINAL RULE**

Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994

Send comments to: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

Or transmit by electronic mail to: atkinjn@acq.osd.mil

From: Albert C. Eisenberg / American Institute of Architects
(Activity/Location/Community/Installation/Group)

Page #: _____


Paragraph: _____

Subject: _____

Recommended Change or Comment:

See attached

Rationale:


Name: Albert C. Eisenberg
Address: 1735 New York Ave NW
Phone: Washington, DC 20006
Date: 202/626-7384
December 27, 1994

THE AMERICAN INSTITUTE OF ARCHITECTS



December 27, 1994

Office of the Assistant Secretary of Defense
for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

Dear Mr. Assistant Secretary:

On behalf of The American Institute of Architects, I am submitting the AIA's views on the interim final rule amendments governing reuse of military facilities ("Revitalizing Base Closure Communities and Community Assistance"), issued on October 26, 1994, in the Federal Register, Volume 59, No. 206.

Architects have an interest in the economic future of closed military facilities. Architects will design the projects that are ultimately decided upon; thus, they will affect the quality of these projects in the design of the individual structures, whether new or rehabilitated, as well as the quality of the environment in which the projects take place. Incorporating the views of architects into the process for determining the reuse can help ensure the successful integration of the former military facility into the larger civilian community.

In general, the AIA believes that the revised rule contains a much more orderly and logical process for "economic development conveyances" of closed military facilities. Under the rule, specifically designated local redevelopment authorities would receive real property, upon approval of an application consistent with a required redevelopment plan. The Department of Defense would evaluate applications according to criteria established in the rule. We support this process and congratulate the Department on developing it.

At the same time, the revised rule contains several omissions that we believe will continue to hamper its effectiveness in facilitating successful economic reuse of the closed military bases. The rule should address these issues as follows:

1. LRA Membership. The rule requires the organization of a Local Redevelopment Authority. At no place does the rule suggest how the authority

December 27, 1994
Assistant Secretary for Economic Security
Page 2

will be established, what its membership should consist of, or how the members should be appointed. Although the rule states that the membership should be "broad based," this nod to involvement of a wide range of community interests is too vague to provide useful guidance. The rule's statement that the Office of Economic Adjustment "can provide guidance and technical and financial support" for the creation of an LRA and a redevelopment plan is inadequate. The rule should be the place where localities can go to see the framework of that guidance, which is now almost totally lacking. The rule should specify that the membership be appointed by the local governing body of the community hosting the closed facility, or a regional body in the case of facilities located within or having clear interest involving more than one community. In the absence of a regional body, a separate, locally determined consortium of affected governments should establish an appointment process, after consultation with the public. In addition, authority membership should be more explicitly stated to reflect not only local officials and development interests, but also residents, architects, civic groups, and others likely to be affected by reuse plans and programs.

2. The Redevelopment Plan. The rule neither references nor states any criteria for the establishment of the redevelopment plan on which the application must be based. The rule should do so, laying out national interests to be achieved. In addition to those interests implied in the application, such as maintenance or restoration of the closed facility's economic contribution to the host community and its region and efficient use of infrastructure, there are others that the application should portray, including careful integration of the closed facility into the community; successful coordination of the redevelopment plan with other economic development activities; close relationship with other federal planning processes; attention to sound principles of urban design; and strong public participation. The rule's statement of these national interests will aid localities in the development of their application.

3. Public Participation Process. There is no requirement in the rule for anything remotely suggesting a public participation process, to make sure that the public at

December 27, 1994
Assistant Secretary for Economic Security
Page 3

large has reasonable opportunity to help develop and implement the plans that have so much to do with the economic future of their area. Without such a requirement, some places will likely not provide the access to the process that the public deserves, and will also experience otherwise avoidable opposition to redevelopment plans or will miss opportunities that a wider circle of citizen participation could have identified.

The lack of a public participation process in the rule appears to run counter to all the other Administration's community revitalization initiatives, including those emanating from the Department of Transportation to the Department of Housing and Urban Development.

The rule should remedy this omission by stating specifically that the Local Redevelopment Authority must establish a public participation process. Further, the rule should state that this process must: 1) allow early involvement of citizens and affected groups in the development of a redevelopment plan and of the application for an economic development conveyance; 2) provide citizens and organizations with timely and ready access to information; 3) provide ample opportunities for public suggestions and comments on the evolving proposed plans and programs; and 4) require the authority to provide evidence that the public was indeed consulted and heard. The more that decision making devolves to the local level, the more the federal government must rely on a public participation process as the most potent means of ensuring accountability for the sound reuse of the public asset, the closed facility, transferred into local hands.

4. Regional Effect. The rule casts the process as if it involved a single locality and a single property. It does not appear to take into account the fact that some base closings affect entire regions, not just a particular community. The rule should specify that regional bodies and consortia should be involved in creating local redevelopment authorities for their areas, as well as redevelopment plans that will adequately address regional issues and concerns surrounding the closure of a facility.

December 27, 1994
Assistant Secretary for Economic Security
Page 4

5. Application Criteria: Although the application elements and the evaluation factors are designed to elicit quality proposals, as noted in the point above, the rule treats the economic development program as an isolated event or project. The proposed program will open to new, productive use a facility that has been essentially closed to the public and operated apart from the community at large. Now that the property is to become part of the community, the federal government has a fiduciary interest in ensuring that the property is transferred into capable hands that will use it well. Thus, larger issues need to be addressed in the application. These other issues include adequacy of transportation, sufficiently trained labor supply, housing availability, environmental protection, and consistency with local or regional land use and comprehensive plans. Unless these issues are adequately considered in the reuse proposal, the economic development will remain a plan, facing an uncertain future, or worse it will fail after having consumed substantial resources.

The application should include a new (viii) element that embodies the considerations noted above. Specifically, the applicant should demonstrate the extent to which the proposed economic use has adequately taken into account the transportation needs of the development, the relationship of the reuse to other economic goals and programs of the community, environmental impacts, consistency with local or regional land use and development plans; and the adequacy of labor for the new economic development and of affordable housing for new employees residing or expected to reside in the community. The information provided in the application on these issues would then be included as an evaluation factor.

6. Application Submission Timing: The rule states that the Military Department shall establish a reasonable time period for submission of the application. There is no indication of the basis on which the Military Department will make that decision, much of which presumably would relate to the redevelopment plans that the affected locality or localities create. Consistent with the mutual interest of localities and the Department of Defense for rapid transfer of property, and

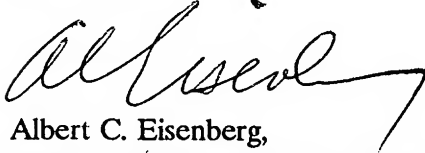
December 27, 1994
Assistant Secretary for Economic Security
Page 5

bearing in mind the importance of feasible, community-supported redevelopment plans, the Department should place in the final rule the criteria for establishing a reasonable time period for application submission.

7. Environmental Clean-up: While rules governing environmental clean-up responsibilities and procedures may lie outside the scope of this rule-making, it is nevertheless one of the key issues faced by localities in acquiring closed military facilities. This rule should at the very least reference clean-up provisions established elsewhere in federal law and regulation. Until and unless decisions about addressing the often serious contamination of former military establishments are made, economic development conveyances will be frustrated.

We appreciate the opportunity to share our views on this important matter. Should you have further questions or comments, please do not hesitate to call upon me. I can be reached at 202/626-7384.

Sincerely,

A handwritten signature in dark ink, appearing to read "Al Eisenberg", with a long, sweeping horizontal stroke extending to the right.

Albert C. Eisenberg,
Senior Director for Federal Legislative Affairs



MUCKLESHOOT INDIAN TRIBE

39015 172nd Avenue S.E. • Auburn, Washington 98002-9763

Phone: (206) 939-3311 • FAX: (206) 939-5311



December 22, 1994

Office of the Assistant Secretary of Defense
for Economic Security
Attn: Goshua Gotbaum
The Pentagon, Room 3D814
Washington, DC 20301-3300

RE: 10/26/94 Base Closure Letter
(Interim Rule (Title XXIX))

Dear Mr. Gotbaum:

Please consider this a formal response from the Muckleshoot Tribe to your letter dated October 26, 1994 (received by our office on 11/7/94), requesting comments to further amendments to the BRAC Act. This Interim Rule (Title XXIX) clearly omits Tribes in this process.

Once again it would appear no thought was given in respect to the Government to Government relationship that Tribal Governments enjoy with not only the Federal Government, but all Federal Agencies including the Department of Defense. President Clinton made it very clear in his April 29, 1994, memorandum that:

(a) Each Executive department and agency shall consult, to the greatest extent practicable and to the extent permitted by law, with tribal governments prior to taking actions that affect Federally recognized tribal governments. All such consultations are to be open and candid so that all interested parties may evaluate for themselves the potential impact of relevant proposals.

(b) Each Executive department and agency shall assess the impact of Federal Government plans, projects, programs, and activities on tribal trust resources and assure that tribal government rights and concerns are considered during the development of such plans, projects, programs and activities.

(c) Each Executive department and agency shall take appropriate steps to remove any procedural impediments to working directly and effectively with tribal governments on activities that effect the trust property and/or governmental rights of the tribes.

(d) Each Executive department and agency shall work cooperatively with other Federal departments and agencies too enlist their interest and support in cooperative efforts, where appropriate, to accomplish the goals of this directive.

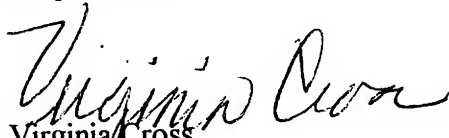
(e) Each Executive department and agency shall apply the requirements of Executive Orders Nos. 12875 ("Enhancing the Intergovernmental Partnership") and 12866 ("Regulatory Planning and Review") to design solutions and tailor Federal Programs, in appropriate circumstances, to address specific or unique needs of tribal communities.

Even though we appreciate the opportunity to comment, we however do not consider publishing something in the CFR as consultation. Further, we consider this amendment a violation of Executive Order 12866 and especially Executive order 12875 and clearly no attention was paid to President Clinton's April 29th Directive. Also, the omitting of 550 Tribal Governments may violate the Regulatory Flexibility Act.

The First Nation Native American Base Closure Conference was held in San Diego, California, on December 8 & 9, 1994, and at that conference we established a task force allied with the National Congress of American Indians (NCAI) to address the above concerns. The next meeting will during January in Washington, DC, at which time we would like to meet with you to discuss further amendments to BRAC.

Thank you for the opportunity to comment. If you have any further questions for us, please contact JeffWatkins at (206) 939-3319, ext 156.

Respectfully,


Virginia Cross
Chairperson

cc: Senator John McCain
Senator Daniel Inouye
Senator Patty Murray
Representative Jennifer Dunn
Representative Norm Dicks
Paul Moorehead, NCAI
Robert Uhrich, EFA Northwest
Cdr. Robert Appleby, Puget Sound Naval Station
Gary Ulrich, General Accounting Office

**FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
FINAL RULE**

Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994

Send comments to: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C 20301-3300

Or transmit by electronic mail to: atkinjn@acq.osd.mil

From: Muckleshoot Indian Tribe
(Activity/Location/Community/Installation/Group)

Page #: 91.7

Paragraph: (e)(4)

Subject: Economic Development Conveyance

Recommended Change or Comment:

A local LRA & Indian Tribes are the only entities eligible to receive property under an EDC Conveyance. A LRA should be broad-based membership, including Native American Tribes and others, other than those jurisdictions with zoning authority over the property.

Rationale:

Without Tribal involvement in this regulation drafting processes and by denying them access to excess/surplus property either through the PL 93-638 process or BRAC you have violated:

**Executive Order 12866 -- "Regulatory Planning and Review"*

**Executive Order 12875 -- "Enhancing the Intergovernmental Partnership"*

**Regulatory Flexibility Act -- "550 Tribes will have been Affected"*

**President's April 29, 1994 -- "Memorandum will have been ignored"*

Name: Virginia Cross, Chairperson, Muckleshoot Indian Tribe
Address: 39015 SE 172nd
Auburn, WA 98092
Phone: (206) 939-3319 ext 156
Date: December 22, 1994

Alameda Reuse and Redevelopment Authority

Naval Air Station
Postal Directory, Bldg. 90
Alameda, CA 94501-5012
510-263-2870
FAX 510-521-3764

December 23, 1994

Mr. Joshua Gotbaum
Office of the Assistant Secretary of Defense for Economic Security
Room 3D814
The Pentagon
Washington, DC 20301-3300

Re: Interim Final Rule Amendments (32 CFR Parts 90 and 91)

Dear Mr. Gotbaum:

Thank you for the opportunity to provide comments on the Interim Final Rule Amendments related to "Revitalizing Base Closure Communities and Community Assistance" (32 CFR Parts 90 and 91). These comments are provided on behalf of the Alameda Reuse and Redevelopment Authority ("ARRA"). The ARRA is the entity responsible for developing and implementing the local reuse and redevelopment plan for the Naval Air Station, Alameda ("NAS Alameda"), and Naval Aviation Depot, Alameda ("NADEP Alameda"), referred to jointly throughout this letter as NAS, Alameda. Our comments offer a proposal for a "joint venture" relationship between the federal government and the ARRA that could serve as a national economic model for other communities affected by base closure.

NAS Alameda and NADEP Alameda are located almost entirely within the City of Alameda, California. These military facilities, in combined land area, comprise approximately one third of the City's entire land mass. In addition, both bases employ large numbers of City residents. Closure and redevelopment of military facilities in Alameda will have an enormous fiscal impact on our city, a city which, like others in California, is already struggling with economic adversity. Current financial challenges have forced the City to leave large portions of its capital improvement program unfunded. The City government has had to adopt a four-day work week in order to conserve scarce financial resources. Moreover, the City continues to have difficulties meeting the matching grant requirements of the Office of Economic Adjustment ("OEA"). The impact of base closure and redevelopment on our community will, therefore, be especially significant in light of the City's present economic situation.

Clearly, the City of Alameda has no significant financial resources to bring to the base closure process. Alternatively, it has a precarious financial situation that, if further jeopardized, might have serious repercussions on the economic well being of the community.

The condition of the bases in Alameda also makes our circumstances uniquely burdensome. Presently, there is no apparent reuse potential and no significant ready market for either military facility. Unlike the Presidio of San Francisco, for instance, there is no organization or agency with immediate existing reuse intentions. In addition, the large number of single-purpose buildings and buildings not meeting appropriate civilian building and safety code standards makes our redevelopment scenario more difficult. Large sums of money, which the City does not have or expect to have, will be necessary to upgrade, modify or demolish these nonconforming buildings. Finally, the utilities and other physical infrastructure of the bases are dated and need repair or replacement to meet required standards.

With the condition of the base as a backdrop, there is also the absence of a supportive private or public lending community. It is unlikely that private lenders or public bond underwriters will come forth until the environmental clean-up of major portions of the base have been completed and market absorption has been established. Consequently, the City of Alameda and the ARRA faces the prospect of a tremendous financial burden without any available lending resources.

Because of the aforementioned hardships facing the Alameda community, and furthermore, due to lack of available financial resources, the success of the base conversion process depends entirely on a close working relationship between the ARRA and the federal government. The new framework put forth in the revised rules significantly improves the potential for such a relationship. Now what is needed is a more precise definition of the roles and relationships between the federal government and the local reuse authority.

The following is an outline of the type of relationship that will be required in order for base conversion to be successful at the Naval Air Station, Alameda. The federal government must recognize that it is the only available lender of any scale to support this process at the outset. Therefore, it will be key that the federal government provide the initial financial resources to sustain the continuous use and occupancy of the base. The seed money would be required to upgrade infrastructure, to demolish economically obsolescent structures and to support negative operating cash flows during the early years. This financial role is a fairly typical role played in large scale private development by equity partners. By making this investment, the federal government assures that it ultimately will receive some value for the land and marketable buildings. The seed money provided by the federal government would be considered a loan that would be repaid over time. As infrastructure improvements are made and as the physical landscape is put in a condition that is more acceptable, increased market potential would be created for the base. It is also anticipated that the environmental condition of the

base would be remediated to an acceptable condition so that the lending community could participate in the economic development process. Thus, over time, the following revenues would be generated that could be considered as resources to repay the federal loan.

First, positive net operating cash flow may be generated by the reuse of the existing physical assets. This assumes that a market will develop for these resources and that rapid conversion can take place so these assets do not deteriorate before they can be put to use. Second, as the environmental conditions are remediated and as markets can be demonstrated, it is anticipated that the lending community would become involved. The likely form of initial involvement would be to supply public improvement bonds or Mello Roos bonds that would serve as resources to repay the federal government for its investment in infrastructure improvements. Third, as large sites are cleared of existing economically obsolescent buildings, remediated to acceptable levels and supplied with infrastructure, they will be made available for sale to the development community. This also assumes that these sites will have achieved the necessary zoning and entitlement status to make them acceptable candidates for development. As sales would be made by the ARRA, the net sales proceeds would also be used to repay the federal loan. [The relationship described above is somewhat typical of joint ventures created between development entities and equity partners on large scale private developments.]

The net result of the relationship described between the federal government and the local reuse authority (the ARRA) is to create a win-win situation as opposed to an inevitable lose-lose situation if this relationship does not exist.

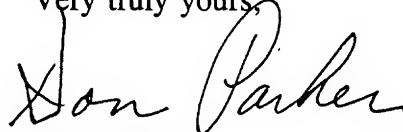
It is realistic to assume, in the case of the Naval Air Station, Alameda, that due to the current condition of the physical assets, there is no residual land value or perhaps even a negative value. As previously described, an investment must first be made in remediating the land, demolishing unusable facilities, and supplying acceptable infrastructure before positive values can be achieved. By making the "seed money" available, the federal government assures itself of recapturing both its investment and ultimately a substantial value for the land. In addition, the federal government also assures that economic development will take place, jobs will be created, and federal income taxes will be generated.

This scenario also creates a win situation for the local and regional community. Naturally, if there is no utilization and development of the property, the local community will suffer not only due to its loss of jobs, but also because of the drain on the financial resources of the community. On the other hand, with development, there will be the creation of jobs and economic opportunity that will result in the community generating property taxes, sales taxes, and administrative fees.

The basic revision we suggest is that the conveyance procedures embrace a "joint venture" type relationship between local communities and the federal government. Such an arrangement best acknowledges the reality that only the federal government can assist local communities in initially financing the cost of base reuse and redevelopment and by making this initial loan, it can be assured that it will receive an ultimate return on the land. At the same time, however, this joint venture type of process would permit local communities to return, over time, the benefits of local economic development and job creation.

The suggestions put forth in this letter offer a dramatic departure from current thinking. To carry out this concept, it is suggested that the Naval Air Station be treated as a national demonstration model. This status would fulfill a pledge already given by President Clinton. We look forward to working with you to consider such an arrangement.

Very truly yours,

A handwritten signature in black ink, appearing to read "Don Parker", written over a horizontal line.

Don Parker
Executive Director

DP/eb

cc: The Honorable Dianne Feinstein
The Honorable Barbara Boxer
The Honorable Ronald V. Dellums
The Honorable William Cassidy
Bill Norton, Alameda City Manager
Captain Terry Dillon, Real Estate Division
Alameda Reuse and Redevelopment Authority Members
Carl Anthony, East Bay Conversion and Reinvestment Commission



The Port of Long Beach

P. O. BOX 570 • LONG BEACH, CA 90801-0570 • TELEPHONES: (310) 437-0041 • FAX: (310) 437-3231 • TELEX: 65-6452 PORTOBEACH LGB

December 27, 1994

Office of the Assistant Secretary
of Defense for Economic Security
Room 3D814
The Pentagon
Washington, DC 20301

SUBJECT: Revitalizing Base Closure Community and Community Assistance - Amendments to Interim Final Rule (Federal Register October 26, 1994)


Dear Assistant Secretary:

This letter is in response to the publication of the Amendments to the Subject Interim Final Rule and a follow-up to the Port of Long Beach's June 29 letter on the Interim Final Rule. We are still concerned that the regulations necessary to implement a public benefit transfer for Port use are still not available. While we understand they are "due out" in 1995, there does not appear to be any assurances that these regulations will be out in a timely manner. The lack of these regulations will delay the permanent transfer of a portion of the Long Beach Naval Station to the Port of Long Beach and as such will delay the development of the property.

While we are aware that the Department of Transportation will be issuing regulations, we see no reason why the Base Closure Community and Community Assistance Interim Final Rule cannot be amended to cover the public benefit transfer for Port use. Priority should be given for the transfer of surplus waterfront property at no cost if the intended use is for Port purposes.

Thank you for the opportunity to comment on the Amendments to the Interim Rule.

Sincerely,


Geraldine Knatz, Ph.D.
Director of Planning

GK:s

cc: Fran Lavelle, AAPA
S.R. Dillenbeck, POLB
P.E. Brown, POLB

PRESIDENT'S "E" AND "E-STAR"
AWARDS FOR EXCELLENCE IN EXPORT





Community Development Department

RECEIVED #12

DEC 29 1994

0ASD(ES)

City of Tustin

300 Centennial Way
Tustin, CA 92680

December 22, 1994

Mr. Joshua Gotbaum
Office of the Assistant Secretary of Defense
for Economic Security
The Pentagon, Room 3D814
Washington, D.C. 20301-3300

**SUBJECT: COMMENTS ON THE AMENDMENT TO
THE INTERIM FINAL RULE**

Dear Mr. Gotbaum:

Thank you for providing Local Redevelopment Authorities such as Tustin an opportunity to review and comment on the proposed Interim Final Rules for Economic Development Conveyances. The City strongly believes that the present version, with some minor revisions, is dramatically improved over the earlier version released in April 1994. However, we believe that the attached "clarifications" would further benefit the federal government and local agencies in their joint effort to bring about economic conversion and job creation at closing military bases across the nation.

Again, thank you for the opportunity to participate in this process. Please contact me at (714) 573-3107, if you have any questions regarding this matter.

Sincerely,

Christine Shingleton

Christine A. Shingleton
Assistant City Manager
MCAS Tustin Reuse Project Director

cc: George Schlossberg
Peter Hersh, City of Irvine
Ben Williams, OPR
NAID
Colonel Ritchie, BRAC Office
William A. Huston
Dana Ogdon
Major Murphy

TS:CAS:kbc\gotbaum3.1tr

From: City of Tustin, MCAS, Tustin

Director
(714) 573-3106

Planning & Zoning Info.
(714) 573-3140

Building
(714) 573-3131
(714) 573-3132

Housing
(714) 573-3117

Code Enforcement
(714) 573-3134

Business License
(714) 573-3144

Inspection Requests
(714) 573-3141

Graffiti Hot Line
(714) 573-3111

FAX Machine
(714) 573-3113

From: City of Tustin, MCAS, Tustin
Page: 53740
Paragraph: 2, Col. 1
Subject: Conveyance

The focus of the EDC is job creation and is not intended to supersede other federal property disposal processes unless unusual circumstances are presented that demonstrate "that the needed economic development and job generation cannot occur" under any other federal property transfer process (Section 91.7(e)(2)). A list of "Surplus Federal Property Transfer Methods" available to Local Redevelopment Authorities (LRAs) is provided within part B "Background" of 32 CFR Parts 90 and 91, published in the federal register on October 26, 1994. Section 91.7(e)(6)(v) requires the LRA to provide an argument why these transfer alternatives cannot be used to accomplish these economic development and job creation goals.

While it is reasonable to assume that an LRA should not be allowed to supplant the Public Benefit Conveyance process (especially since those requests typically do not directly generate jobs), the list also includes negotiated sales and public sales as transfer methods which should not be ignored. Neither of these alternatives permit Fair Market Value discounts to public agencies. We believe that it may be difficult to argue that job generation would not occur under the Negotiated or Public Sales process and that an EDC should take precedence over those conveyance alternatives.

Acquisition of property through an EDC is intended to relieve the responsible military department of operation and maintenance costs. In addition, concern had been raised by LRA's during the previous Rule's Comment period that private interest might "cherry pick" the best properties leaving the rest to the military or the community as unmarketable.

Name: City of Tustin
Address: 300 Centennial Way, Tustin, Ca. 92680
Contact: Christine Shingleton, Project Director
Phone: (714) 573-3107
Date: December 22, 1994

From: City of Tustin, MCAS, Tustin
Page: 53740
Paragraph: Last, Col. 3
Subject: Funding Assistance

We believe that an LRA must have the ability to offset significant initial operation and maintenance costs (Section 91.7(e)(8)(ix) during the early years of acquisition with support through funding from the responsible military department to accomplish future rapid economic development and job creation. Once a positive cash flow can be established through interim leases or property sales, this assistance could be reduced.

The preparation of an EDC application will require the allocation of significant financial resources which may not be available to the LRA. Will financial assistance via the Office of Economic Adjustment, Economic Development Administration or other federal agencies be made available to assist an LRA in this effort? Language supporting this concept is provided in the Rule's summary but is not contained in the Rule itself. We suggest that language supporting that possibility be provided within the Final Rule.

Name: City of Tustin
Address: 300 Centennial Way, Tustin, Ca. 92680
Contact: Christine Shingleton, Project Director
Phone: (714) 573-3107
Date: December 22, 1994

From: City of Tustin, MCAS, Tustin
Page: 53740
Paragraph: 2, Col. 2
Subject: Appraisal

Section 91.7(e)(6)(iv)(B) requires that the "estimated fair market value of the property" be provided by the LRA. Section 91.7(f) indicates that the property's market value will be determined by an appraisal by the military. The Final Rule should clarify that the appraisal required of the LRA be prepared jointly and with the support of the military department.

Name: City of Tustin
Address: 300 Centennial Way, Tustin, Ca. 92680
Contact: Christine Shingleton, Project Director
Phone: (714) 573-3107
Date: December 22, 1994

From: City of Tustin, MCAS, Tustin
Page: 53740
Paragraph:3, Col. 3
Subject: Appraisal

Section 91.7(e)(7) indicates that in reviewing an EDC application, the military department may "also consider information independent of the application, such as views of other federal agencies, appraisals, caretaker costs and other relevant material." It is recommended that the Final Rule be amended to stipulate that such other information shall be shared with and may be responded to by the LRA during any negotiation or consultation phase.

Name: City of Tustin
Address: 300 Centennial Way, Tustin, Ca. 92680
Contact: Christine Shingleton, Project Director
Phone: (714) 573-3107
Date: December 22, 1994

From: City of Tustin, MCAS, Tustin
Page: 53740
Paragraph: Multiple
Subject: Appraisal

The term "present fair market value" must be used consistently in the rules themselves in paragraphs 90.4(b), 91.4 and 91.7(e)(6)(vi) and (f)(1) as it is already used in 91.7(e)(3). It is our intent that the DoD should share or participate in future increases in fair market value achieved by the LRA reuse effort.

Name: City of Tustin
Address: 300 Centennial Way, Tustin, Ca. 92680
Contact: Christine Shingleton, Project Director
Phone: (714) 573-3107
Date: December 22, 1994

From: City of Tustin, MCAS, Tustin
Page: 53740
Paragraph: 3. Col. 1
Subject: Appraisal

91.7(e)(3): In order to avoid the adversarial climate that often exists in negotiated public agency sales, please under the 1949 Federal Property Act procedures, please add, "The Military Department will share the property appraisal with the Local Redevelopment Authority."

Name: City of Tustin
Address: 300 Centennial Way, Tustin, Ca. 92680
Contact: Christine Shingleton, Project Director
Phone: (714) 573-3107
Date: December 22, 1994

From: City of Tustin, MCAS, Tustin
Page: 53740
Paragraph: 4th from bottom, Col. 2
Subject: Appraisal

91.7(e)(6)(iv)(B): The word "future" should be inserted so that the plan indicates "the estimated future fair market value of the property."

Name: City of Tustin
Address: 300 Centennial Way, Tustin, Ca. 92680
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Phone: (714) 573-3107
Date: December 22, 1994

From: City of Tustin, MCAS, Tustin
Page: 53740
Paragraph: 3rd, Col. 3
Subject: Conveyance

91.7(e)(7): We suggest that additional wording be added so that the responsible Military Department requests and gives careful consideration to the comments on the community's proposal from the Director of the DoD Base Transition Office and the Director of Economic Adjustment.

Name: City of Tustin
Address: 300 Centennial Way, Tustin, Ca. 92680
Contact: Christine Shingleton, Project Director
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From: City of Tustin, MCAS, Tustin
Page: 53740
Paragraph: 3rd from bottom, Col. 3
Subject: Conveyance

91/7(e)(7)(viii): Delete entirely. The community base reuse plan is required to be the "preferred alternative" in the Military's disposal Environmental Impact Statement. There should not be any "overall Military Department disposal plan for the installation" other than the community's base reuse plan].

Name: City of Tustin
Address: 300 Centennial Way, Tustin, Ca. 92680
Contact: Christine Shingleton, Project Director
Phone: (714) 573-3107
Date: December 22, 1994

Date: 12/23/94 3:29:36 PM
From: dxdrozd@efdnorth.navfac.navy.mil
Subject: ECONOMIC DEVELOPMENT CONVEYANCES (EDC) COMMENTS
To: atkinjn@acq.osd.mil

The following is provided in response to Mr. Gotbaum's letter of Oct. 26, 1994 requesting comments on the Amendment to the Final Rule Amending Sections 91.7 (d) (e) and (f) of Interim Final Rule Published April 6, 1994:

Page #53738 of Federal Register dtd Oct 26, 1994

Paragraph 7.

Subject: LRA's legal authority to acquire and dispose of property

Comment: This paragraph indicates "LRAs are encouraged to use site information available from the Military Departments, including maintenance and caretaking expenses." My comment is to delete providing maintenance and caretaker expense information to LRAs. The reason is as follows:

My command deals with several LRAs who are considering acquiring closed Navy activities in the Northeastern United States. The LRAs are exploring EDC, public benefit conveyances and negotiated sale from the Federal government to acquire the property, or a combination of these approaches. While providing information on caretaker expenses to the LRA to support an EDC may be appropriate, this same information may compromise the federal government's position in a negotiated sale. Since no one can preclude an LRA from exploring all avenues to acquire closed bases, the federal government must make all avenues available. Information acquired by the LRA in preparing the EDC (caretaker expenses) may result in the LRA not being able to acquire property by negotiated sale. To keep all avenues open to the LRA, caretaker expenses should not be provided to them.

Thank you for the opportunity to comment.

For further discussion, I can be reached at:
Northern Division, Naval Facilities Engineering Command
Attn: David Drozd, Code 09TA
10 Industrial Highway
Mail Stop 82
Lester, PA 19113
Phone 610-595-0519

Date: 12/23/94 3:41:17 PM
From: loralee@uadvance.UCSC.EDU
Subject: Comments On Amendment to Pryor Rule
To: atkinjn@acq.osd.mil
CC: jgill@rupture.acq.osd.mil
CC: loralee@uadvance.UCSC.EDU
CC: ucftord@uadvance.UCSC.EDU

Thank you for this method of sending comment. Please confirm receipt of the following:

December 23, 1994 - Page 1-
12:29 PM

December 23, 1994

Mr. Joshua Gottbaum
Assistant Secretary of Defense for
Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

RE: Comments on the "Amendment to the Interim Final Rule" of the "Pryor Amendment" (Amending Sections 91.7 (d)(e)&(f))

SUBMITTED VIA ELECTRONIC MAIL: atkinjn@acq.osd.mil
(As suggested in Mr. Gottbaum's letter of 10/26/94)

Dear Mr. Gottbaum:

This letter provides comment on the above referenced Amendment to the Interim Final Rule of the Pryor Amendment. These comments are brief and are intended to raise questions of practical application of this Amendment. These comments, as before, are mine from the perspective of my experiences which include the property conveyances made to the University of California (UC) at Fort Ord.

Several of the changes found in the Amendment referenced above, such as the increased recognition of the local planning priorities, the elimination of the "market test", and the increased flexibility afforded the military services to negotiate terms and conditions of the transfer are welcomed and mirror earlier recommendations resulting from our extensive negotiations during the conveyances at Fort Ord. Below are comments specific to the practical application of this Amendment.

1) Transfers to a Single Local Reuse Authority (LRA) vs. Flexibility of Transfers

At Fort Ord transfer of property under the "Pryor Amendment" to the University of California (UC) and the California State University system (CSU) and, potentially, Economic Development Conveyance (EDC) transfers to the Fort Ord Reuse Authority (FORA), may result in a total of three independent transfers under the Pryor Amendment mechanism.

The intent of the President's Five Point Plan and the Pryor Amendment clearly is "to speed the economic recovery of communities affected by base closures" by expediting the reuse of closing military bases. Evidence from our Fort Ord experience argues in favor of flexibility for property transfers to more than a single LRA or entity under this mechanism.

At bases where more than one local governance body has jurisdiction over the closing installation, such as at Fort Ord, the process of creating a new governing body is time consuming and costly. Much work has gone into the establishment of the Fort Ord Reuse Authority (FORA). Several legislative actions at the state level, expeditiously facilitated by senior legislative leadership, were required to provide the jurisdictional and financial frameworks with which to create this new governing entity. At

the time of this writing, the reuse activities undertaken directly by the two universities, made possible through direct conveyances of property to each, are expected to produce jobs and reuse activity on the base before any activity resulting from conveyances directly to FORA.

If the LRA, FORA in this case, was the only entity that could have received property conveyances under the Pryor Amendment, no transfers would have yet taken place and the base reuse activities would still be many more months away.

Recommendation: Provide flexibility as to which entities can receive EDC transfers. Include the need for LRA concurrence with the intended reuse activity, but provide for direct transfers to entities, such as state agencies, to expedite reuse planning and implementation.

2) Business Plan Requirement

The Amendment requires the submittal of a detailed "business and development plan" (Plan) with the application for an EDC transfer. Though the information provided in the Plan is clearly important, I believe that DoD's requirement for this Plan as part of the application process is burdensome and creates a potential conflict of interest.

When DoD places the requirement of this Plan on the community, due to economic need it follows that funding for this planning effort will be sought by the community from the Office of Economic Development (OEA), a DoD affiliated entity. To create the Plan the quantity and quality of the data that can be obtained, the level of expertise brought to bare on the project, and the quality of the final plan, are directly impacted by the total dollars invested in the planning effort. A potential conflict arises when the funding made available by OEA for the "business and development plan" is not, or is perceived by the community not to be, sufficient to produce a quality plan. This link between planning dollars and the Plan may specifically become an issue if the application for the conveyance is denied by DoD based upon inadequacies in the "business and development plan".

Additionally, according to this Amendment, information requested by DoD in the Plan as an integral part of the application must include information such as the "economic viability of the project, including an estimate of the net proceeds over a fifteen-year period" and other projections and indications of the expected "profitability" of the proposed effort. A conflict arises when considering the "criteria and factors" that will be used to determine if a community is eligible for an EDC transfer. The criteria includes a requirement that, "Economic benefit to the Federal Government, including protection and maintenance cost savings and anticipated consideration from the transfer" be evaluated. The intent of the President's Five Point Plan, to speed the economic recovery of communities affected by base closures, may be frequently at odds with this stated criteria. Essentially, the military service is required by this Amendment to use a tangible "return" to the DoD as a measure of merit to be weighed against (or balanced with) a "return" to the communities, a return that may be long-term and less tangible but one that meets the President's intent. A conflict may loom when DoD officials are asked to make decisions as to the relative weight of "return to DoD" vs. "return to the community".

Recommendation: The DoD should determine whether the dollar return to the DoD or the economic return to the community is the priority. Until that determination is made, using a "business and development plan" as part of the determination for acceptance of the EDC application will accentuate this potential conflict.

3) Flexibility of Payment Methods

The Amended rule now provides for flexibility and discretion in the development of the general terms and conditions of the conveyance, including the amount and type of consideration, and the payment schedule. This flexibility is welcomed after our experiences with the property transfers to UC and to CSU at Fort Ord. However, as UC and CSU continue our discussions to refine the appropriate guidelines for determining allocability and allowability of expenses in the calculation of "net profit"

for our profit sharing arrangement with the DoD, it is also becoming evident that some standard of terms should be adopted. This standard should be reflective of economic development activities and should be non burdensome to both the entity receiving transfer and to the military service responsible for the conveyance. To have each conveyance be made under a different set of terms and conditions will require unnecessary investment of resources on the part of the DoD to provide audit and oversight functions.

Recommendation: Adopt Generally Accepted Accounting Principals (GAAP) for the allowability and allocability of expenses when a 'profit sharing' mechanism is used. In cases where other means of compensation are agreed to, provide a menu of choices for those terms (i.e. deferred payments, mortgages, etc.) in advance and determine some broad guidelines so that the variations on the terms are predictable and manageable by the DoD.

4) Equitable Positions of "Risk"

The most fundamental problem I see with the revised process as put forth in this Amendment is the unequal positions of risk between the DoD and the community. This is most clearly evident with the concept of "entering into one of two types of agreements" for the transfer of ownership. Through the development and submittal of the application for the EDC transfer the community has provided the DoD with substantial information as to the need and intent of the community for reuse activities. To increase the likelihood of "acceptance" by DoD of the EDC application a community most likely will provide as much detail as possible in this application, particularly in the "business and development plan" component, including a focus on expected "return" on the reuse activities. This Plan will necessarily make assumptions about the property to be conveyed (i.e. infrastructural needs and existing condition of the systems) that, as in the case of our transfers at Fort Ord, cannot be confirmed by the military service in question. Without further adequate knowledge the community is then required to sit at the table and come to "agreement" as to the amount and terms of consideration to be provided DoD.

Specifically the problem arises when the community agrees to pay DoD a "price" for the EDC transfer. As interpreted from this Amendment the "price" is an agreement that must be met. In determining the "price" DoD has used information provided by the community in its EDC application. From our experience at Fort Ord it was evident that many of the assumptions needed to develop the business and development plan cannot be validated by DoD. For example, the community may develop the business and development plan based on an assumption of minimal need to upgrade infrastructure. If an agreement on price is made when DoD cannot confirm or deny the condition of the infrastructure (in our case DoD could not even confirm where it was let alone the condition), and then the infrastructure is found to be in need of substantial upgrades, the community may find that it can not achieve its projected return due to the extensive burden of the infrastructure. As written, there is no "out" clause provided for in this Amendment that would allow for an adjustment or a re-negotiation of "sale price" as new information is unearthed (pun intended). The community is required to take all the risk and the DoD to take none; an arrangement that clearly does not follow the spirit of the President's Five Point Plan.

Recommendation: The risk in the EDC transfer process must be shared between the community and the DoD. Until such time that the DoD can, with certainty, provide the communities with assurances of the conditions of the property being conveyed (i.e. infrastructure, UXO, etc.) provisions for the sharing of that risk must be included in this Amendment and the referenced transfer process. Possibilities for such shared risk include the "profit sharing" arrangement between the UC and the DoD at Fort Ord. Another possibility would be validation by DoD of the communities' assumptions used in their EDC applications.

In closing, Robert Hertzfeld should be commended for bringing the terms found in this Amendment much closer to a practical method of guidance for the President's Five Point Plan. This is not an easy process as we have learned through the UC experience at Fort Ord; a process still underway as we continue to fine-tune the profit sharing terms. The country is developing a new mechanism to address a complicated issue in a rapidly changing and uncertain arena. A lesson learned in our experience is the need to develop guiding language that recognizes and provides flexibility for the uniqueness of each transfer while providing some practical constraints for integrity and oversight of process.

Finally, and most importantly, it continues to be evident that until the conflicting requirements and goals of 1) achieving a return, perhaps even a maximum return, to the DoD for property transferred and 2) the need to speed the economic recovery of communities affected by base closures is resolved, this process will continue to be difficult, if not impossible, to effectively implement. A decision of which takes priority, the DoD return or the community economic stimulus, needs to be made and translated into policy.

Thank you for this opportunity to provide comment.

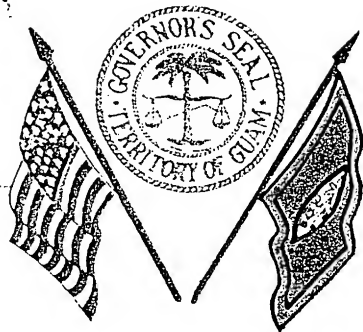
Lora Lee Martin
Director, Program and Policy Development
UC - Fort Ord Project

University of California
269 Applied Sciences Building
Santa Cruz, CA 95064

408/459-3652 voice
408/459-5239 fax
loralee@uadvance.ucsc.edu

cc: Senator Dianne Feinstein
Senator Barbara Boxer
Senator David Pryor
Representative Sam Farr
Representative Ron Dellums
Assistant Secretary Robert M. Walker, US Dept. of Army
Fort Ord Reuse Authority (FORA)
California Defense Conversion Council
Director James Gill, UC - Fort Ord Project

ATDT 4258930



Territory of Guam
Teritorion Guam

OFFICE OF THE GOVERNOR
UPISINAN I MAGALAHI
AGANA, GUAM 96910 U.S.A.

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OASD(ES)

#15

Office of the Assistant Secretary
of Defense for Economic Security
Room 3D814
The Pentagon
Washington, D.C. 20301-3300

DEC 23 1994

Hafa Adai Assistant Secretary:

Enclosed are Guam's comments on the interim final rules, amendments to 32 CFR Parts 90 and 91 as published in the Federal Register dated October 26, 1994. On behalf of the Komitea Para Tiyan (Guam's Reuse Committee) and the people of Guam, I would like to congratulate you and your staff for actively responding to the views submitted by base closure communities such as Guam on the rules published on April 6, 1994. As you know, significant issues concerning the April 6th rules were raised which seriously affected the communities' ability to reuse closed military installations in a rapid, realistic manner, in keeping with President Clinton's Five Point Plan. We believe that the changes made in the recent rules, correct many of the problems raised by the old rule.

We recognize that the federal government is required by law to develop the guidelines for implementation of the base closure and reuse laws, and provide the tools and the resources needed to support the health of our communities. However, it is our hope that you also recognize that the communities, and not the federal government, are in the best position to determine what's best for the community. This principle guides the following general comments on the rule and the enclosed specific revisions.

Rural communities as well as metropolitan ones, are already required to develop reuse plans for closing bases. For rural communities, the plan development process is an already significant undertaking. The proposed rules should not provide significant roadblocks that hinder base redevelopment through implementing a process that requires a further drain on local financial resources in the plan approval and EDC application process. In our case, we have already begun the plan development process with the financial assistance from FAA and OEA. The detailed business, development, financial and marketing plans called for in the new rules are both unnecessary and costly and should not be required of rural communities in keeping with the intent of Section 2903 of Public Law 103-160, the National Defense Authorization Act for FY 1994.



Commonwealth Now!

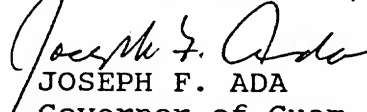
Office of the Assistant Secretary
of Defense for Economic Security
Page 2

We recommend that the requirement to justify why other property disposal options will not achieve the twin goals of economic development and job creation when an EDC application is submitted be eliminated. This requirement signifies the preeminence of options for property disposal for public purposes which, while important, should not be given priority over economic development and job creation goals. Moreover, the need for communities to justify in their EDC applications why sales of base closure property to the public or to the private sectors cannot achieve economic development and job creation goals is a subtle way for DoD to say that market test requirements from the old rule have been eliminated, even though these requirements remain in effect. It also signifies that the generation of revenues through the sale of property in addition to the savings already obtained through closure of the base, is still a priority in the minds of DoD.

Finally, we note that current disposal statutes do not provide for the reuse of closing bases for public offices at no cost. For these general public purposes, properties are normally purchased under the negotiated sales program, under which communities are required to pay fair market value for the property. We view the EDC in a rural area as an opportunity to achieve not only the goals of economic development and job creation but also to achieve the legitimate public goals of reducing public expenditures and the efficient and effective provision of public services. In achieving these goals at closed bases, it is not unusual for significant economic development and job creation in the private sector to occur in the vicinity of public offices. The new rules should allow for an EDC application to be submitted for general public purposes.

Again, let me commend you and your staff for a job well done. It is my belief that the comments provided herein will assist you in ensuring that the rules coincide with community aspirations for base reuse. Thank you for the opportunity to provide our comments.

Si Yu'os Ma'ase',


JOSEPH F. ADA
Governor of Guam

Enclosures

cc: National Association of Installation Developers
Admiral Nash
Admiral Brewer

FORMAT FOR COMMENTS ON THE AMENDMENT TO INTERIM
FINAL RULE

Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994

Forward comments to: Office of Assistant Secretary of Defense
for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: NAS AGAÑA BASE REUSE GROUP, KOMITEA PARA TIYAN
(Activity/Location/Community/Installation/Group)

Page 53739
Column 3
Paragraph 90.4 (b) Policy

Recommended Changes or Comment:

Delete "when other federal property disposal options cannot
achieve such objectives."

Rationale:

It appears that DoD intended to limit the use of an EDC. Instead,
the LRA should determine if an EDC should be used as the primary
method of obtaining federal property to achieve the objectives of
economic development and job creation.

Name: Komitea Para Tiyan
Address: c/o Bureau of Planning (Acting Director Michael Cruz)
Governor's Complex at Adelup
P.O. Box 2950
Agana, Guam 96910
Phone: 472-4201-3(O) 477-1812(F)
Date: December 23, 1994

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Amending Sections 91.7(d) (e) & (f)
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From: NAS AGAÑA BASE REUSE GROUP, KOMITEA PARA TIYAN
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Page 53739
Column 3
Paragraph 91.4 Policy

Recommended Changes or Comment:

Delete "when other federal property disposal options cannot
achieve such objectives."

Rationale:

It appears that DoD intended to limit the use of an EDC. Instead,
the LRA should determine if an EDC should be used as the primary
method of obtaining federal property to achieve the objectives of
economic development and job creation.

Name: Komitea Para Tiyan

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Governor's Complex at Adelup
P.O. Box 2950
Agana, Guam 96910

Phone: 472-4201-3(O) 477-1812(F)

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Washington, DC 20301-3300

From: NAS AGAÑA BASE REUSE GROUP, KOMITEA PARA TIYAN
(Activity/Location/Community/Installation/Group)

Page 53739
Column 3
Paragraph 91.4 Policy

Recommended Changes or Comment:

Change "property" to "proper" to read". . with proper
justification."

Rationale:

This seems to be a typographic error. Change to be consistent with
other similar statements.

Name: Komitea Para Tiyán

Address: c/o Bureau of Planning (Acting Director Michael Cruz)
Governor's Complex at Adelup
P.O. Box 2950
Agana, Guam 96910

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Date: December 23, 1994

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Washington, DC 20301-3300

From: NAS AGAÑA BASE REUSE GROUP, KOMITEA PARA TIYAN
(Activity/Location/Community/Installation/Group)

Page 53740
Column 1
Paragraph 91.7 (e) (2)

Recommended Changes or Comment:

Delete § 91.7 (e) (2) "The EDC should only be used when other Federal property disposal authorities for the intended land use cannot be used to accomplish the necessary economic redevelopment."

Replace with "The EDC may be used as a primary method of federal property disposal to achieve such objectives."

Rationale:

It appears that DoD intended to limit the use of an EDC. The LRA should determine if an EDC is necessary rather than other property disposal options. An EDC should have the same consideration for disposal by the LRA as other property disposal options.

Name: Komitea Para Tiyán

Address: c/o Bureau of Planning (Acting Director Michael Cruz)
Governor's Complex at Adelup
P.O. Box 2950
Agana, Guam 96910

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From: NAS AGAÑA BASE REUSE GROUP, KOMITEA PARA TIYAN
(Activity/Location/Community/Installation/Group)

Page 53740
Column 2
Paragraph 91.7 (e) (6) (ii) (C) & (D)

Recommended Changes or Comment:

Delete (C) & (D)

Replace with " A description of the economic impact of base closure on the local community or the effect of base closure on a communities financial condition.

Rationale:

The Secretary should determine if there is either an economic impact on the community or if the financial condition of the community is affected by the base closure. Only one of the conditions should apply to the community not both. Therefore, the application requirements should be revised.

Name: Komitea Para Tiyan

Address: c/o Bureau of Planning (Acting Director Michael Cruz)
 Governor's Complex at Adelup
 P.O. Box 2950
 Agana, Guam 96910

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Page 53740
Column 2
Paragraph 91.7 (e) (6) (iv)

Recommended Changes or Comment:

Comment: Is it the intent of the rule to require a business plan for each business even if the EDC is a large parcel with many different businesses?

Rationale:

The community may desire to submit an EDC application for a parcel that includes many businesses rather than one large business for the EDC parcel. The business or development plan must be more general in nature to account for multiple business on an EDC parcel to allow for maximum economic development and job creation.

Name: Komitea Para Tiyan

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From: NAS AGAÑA BASE REUSE GROUP, KOMITEA PARA TIYAN
(Activity/Location/Community/Installation/Group)

Page 53740
Column 3
Paragraph 91.7 (e) (8) (viii)

Recommended Changes or Comment:

Delete this provision in its entirety.

Rationale:

The community's reuse plan is the paramount document on which decisions should be based. The EDC application submitted by the LRA should be evaluated on the basis of its consistency with the reuse plan and not on the military's disposal plan for the base.

Name: Komitea Para Tiyan

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Governor's Complex at Adelup
P.O. Box 2950
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(Activity/Location/Community/Installation/Group)

Page 53740
Column 3
Paragraph 91.7 (e) (8) (ix)

Recommended Changes or Comment:

Delete this provision

Rationale:

Major DoD cost savings was achieved in the closure of the base. The amount of additional savings should not be a requirement for an EDC approval since the key is the extent to which the EDC generates economic growth and jobs.

Name: Komitea Para Tiyan

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From: NAS AGAÑA BASE REUSE GROUP, KOMITEA PARA TIYAN
(Activity/Location/Community/Installation/Group)

Page 53741
Column 1
Paragraph add 91.7 (f) (3)

Recommended Changes or Comment:

The National Defense Authorization Act for FY 1994 indicates that conveyances to rural areas can be made without consideration. The rules limit such conveyances to EDCs, a limitation which is not specifically provided for in the law. We request the Secretary to allow conveyances without consideration for any use identified in a rural community, provided that these uses are consistent with the redevelopment plan.

Rationale:

In keeping with section 2903 of the statute, we suggest that requirements for submission of applications and for evaluating such applications from rural communities be as simple as possible to allow rural communities to maximize the use of available resources to encourage economic development and job creation.

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FINAL RULE
Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994

Forward comments to: Office of Assistant Secretary of Defense
for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: NAS AGAÑA BASE REUSE GROUP, KOMITEA PARA TIYAN
(Activity/Location/Community/Installation/Group)

Page 53741
Column 1
Paragraph 91.7 (f) (3)

Recommended Changes or Comment: Replace "... a substantial adverse impact on the economy of the communities in the vicinity of the installation and on the prospect for their economic recovery" with "... when the base closure will have an economic impact on the community or on the prospect for their economic recovery or if the community's financial condition is affected."

Rationale: In keeping with section 2903 of the statute, we suggest that standards of approval for EDCs in a rural area be simplified. By definition, rural areas will have significant difficulty in encouraging economic development and job creation. Responding to detail requirements in an EDC application will not spur economic development and jobs in rural communities.

The Secretary should determine if there is an affect on the economic impact on the community or on the prospect for their economic recovery or if the financial condition of the community is affected by the base closure. Only one of the conditions should apply to the rural community not all three.

Name: Komitea Para Tiyan
Address: c/o Bureau of Planning (Acting Director Michael Cruz)
Governor's Complex at Adelup
P.O. Box 2950
Agana, Guam 96910
Phone: 472-4201-3(O) 477-1812(F)
Date: December 23, 1994

FORMAT FOR COMMENTS ON THE AMENDMENT TO INTERIM
FINAL RULE
Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994

Forward comments to: Office of Assistant Secretary of Defense
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3D814, The Pentagon
Washington, DC 20301-3300

From: NAS AGAÑA BASE REUSE GROUP, KOMITEA PARA TIYAN
(Activity/Location/Community/Installation/Group)

Page 53741
Column 2
Paragraph 91.7 (f) (3)

Recommended Changes or Comment:

Replace "Specific attention will be placed on the business and development plan submitted as part of the EDC application and the criteria listed in section 91.7 (e) (8) will be used." with "Rural areas shall be exempt from complying with the EDC application sections 91.7(e)(6)(iv) Subsections A through D., (v) & (vi) and evaluation section 91.7(e)(8)"

Rationale:

In keeping with section 2903 of the statute, we suggest that standards of approval for EDCs in a rural area be simplified. By definition, rural areas will have significant difficulty in encouraging economic development and job creation. Requiring such communities to provide detailed business, feasibility, marketing and development plans in order to approve their requests for EDCs is unrealistic and unnecessary.

Name: Komitea Para Tiyan

Address: c/o Bureau of Planning (Acting Director Michael Cruz)
Governor's Complex at Adelup
P.O. Box 2950
Agana, Guam 96910

Phone: 472-4201-3(O) 477-1812(F)
Date: December 23, 1994

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From: NAS AGAÑA BASE REUSE GROUP, KOMITEA PARA TIYAN
(Activity/Location/Community/Installation/Group)

Page 53741

Column 2

Paragraph add a new Section 91.7 (f) (3) (i)

Recommended Changes or Comment:

Add the following new section under the paragraph listed above for rural areas: "In addition to other requirements for approval of an EDC in a rural area, the Secretary of the Military Department concerned will approve an EDC in a rural area if the community can demonstrate that the projects for which the EDC is requested will reduce public expenditures and/or improve the delivery of public services."

Rationale:

While rural communities must aggressively encourage the establishment of new economic activities, the reduction of public expenditures and the effective and efficient delivery of public services are significant community goals. The rules should provide allowance for the achievement of these goals given their effects on the health of the rural community, if these goals are identified in the reuse plan.

Name: Komitea Para Tiyan

Address: c/o Bureau of Planning (Acting Director Michael Cruz)
Governor's Complex at Adelup
P.O. Box 2950
Agana, Guam 96910

Phone: 472-4201-3(O) 477-1812(F)

Date: December 23, 1994

Spec Hsat.
16



City of Millington

Base Reuse Committee
N-201-B Bougainville Street
Millington, Tennessee 38053
(901) 873-2400

December 19, 1994

Office of Assistant Secretary
of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

Dear Sir:

Attached you will find comments concerning the Amendment to the Interim Final Rule, amending Sections 91.7(d)(e) and (f) of the Interim Final Rule Published April 6, 1994. We appreciate the effort made by the DoD staff in making the Rule responsive to the needs of the local communities.

You will find as you review the attached comments, the requested changes are relatively minor with the exception of our request for a change in the "rural" definition. We previously suggested an alternative definition, but have since found that several federal programs use definitions on a program by program basis that would resolve our concern. We would encourage the DoD to take a look at these definitions as possible alternatives for the current definition in the Rule.

Again, we are appreciative of the effort being made by the DoD and of the opportunity for the end users to comment on the Rule.

Sincerely,

Phillip L. Whittenberg
Executive Director

Enclosures

Mayor
GEORGE HARVELL, JR.

City Clerk
CAROLYN MADILL

Board of Alderman
F. A. DUNN
R. C. HODGES
J. A. HUTCHESON
H. D. MONCIER
D. H. WAGES
K. T. WHITLOCK
L. M. WILSON

Base Reuse Committee
GEORGE HARVELL, JR.
Chairman
Mayor, Millington
DAVID COOLEY
Memphis Area
Chamber of Commerce

JOE EMISON
U.S. Navy, Retired

CRAIG ESRAEL
Navy Memphis Credit Union
W. S. HOWARD
Millington Telephone Co.

JEFF HUFFMAN
Tipton County Executive

JAMES KNIPPLE
Millington Finance Director

NED McWHERTER
Governor
State of Tennessee

WILLIAM N. MORRIS, JR.
Mayor, Shelby County

GINNY MUSIC
Millington Area
Chamber of Commerce

FRANK RYBURN
Millington Airport Authority

THOMAS SEALE
Millington Industrial
Development Board

JOHN TANNER
Congressman, 8th District

DENNIS WAGES
Alderman, Millington

T. LAMAR WILLIS
CO, NAS Memphis
Executive Director
PHIL WHITTENBERG

**FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
FINAL RULE**

Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994

Send comments to: **Office of Assistant Secretary of Defense for Economic Security**
3D814, The Pentagon
Washington, DC 20301-3300

From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page 53741
Column 1st
Paragraph 91.7(f)(3)

Recommended Changes:

Change the definition of "rural" to recognize that rural communities exist within the boundaries of Metropolitan Statistical areas. Both the Department of Housing and Urban Development (HUD) and the Farmers Home Administration recognize this fact and provide programs for such communities.

Why:

Subsection 91.7(f)(3) as currently written would require a full detailed EDC application before a determination is made that the property could be discounted at 100 percent in rural areas. Property in rural areas should normally convey without cost and with a minimum of detail required in the community EDC application. The EDC application process should be simpler in rural areas than that called for in 91.7(e)(6).

Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
Phone: (901) 873-2400
Date: November 29, 1994

**FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
FINAL RULE**

Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994

Send comments to: **Office of Assistant Secretary of Defense for Economic Security**
3D814, The Pentagon
Washington, DC 20301-3300

From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page 53741
Column 1st
Paragraph 91.7(f)(1)(ii)

Recommended Changes:

Insert the word "present" immediately prior to the words "fair market value" in the first and second sentences of this paragraph.

The paragraph should then read: "(ii) Consideration can be below the estimated range of **present** fair market value, when proper justification is provided. The amount of consideration can be below the estimated range of **present** fair market value, if the Secretary of the Military Department determines that a discount is necessary for economic redevelopment and job creation."

Why:

The narrative on Page 53739 indicates that DoD is obligated properly under Title XXIX "to obtain consideration within the estimated range of present fair market value, or to justify why such consideration was not realized." The change to the cited paragraph is recommended so that it will conform to and reflect the DoD policy as expressed in the narrative on Page 53739.

Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
Phone: (901) 873-2400
Date: November 29, 1994

**FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
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From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page 53741
Column 1st
Paragraph 91.7(f)(1)

Recommended Changes:

Insert the word "present" immediately prior to the words "fair market value" in the third sentence of this paragraph.

The sentence should then read: "The consideration may be at or below the estimated **present** fair market value, with or without initial payment, in cash or in kind and paid over time."

Why:

The narrative on Page 53739 indicates that DoD is obligated properly under Title XXIX "to obtain consideration within the estimated range of present fair market value, or to justify why such consideration was not realized." The change to the cited paragraph is recommended so that it will conform to and reflect the DoD policy as expressed in the narrative on Page 53739.

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Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
Phone: (901) 873-2400
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**FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
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From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page 53741
Column 1st
Paragraph 91.7(e)(9)

Recommended Changes:

Add a new subsection: "(9) The Military Department should advise the Assistant Secretary of Defense (Economic Security) of any final decision on a community application that differs with regard to terms or conditions from those recommended by the Director of Base Transition Office or the Director of Economic Adjustment."

Why:

Both the Office of Economic Adjustment and the Base Transition Office are in positions to understand the closure/reuse processes and unique factors affecting the closure communities. A final decision that differs from their recommendations should be recognized by the Assistant Secretary for Economic Security.

Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
Phone: (901) 873-2400
Date: November 29, 1994

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From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page 53740
Column 3rd
Paragraph 91.7(e)(8)(viii)

Recommended Changes:

This paragraph should be deleted.

Why:

Paragraph 91.7(c) requires that the community base reuse plan be the "preferred alternative" in the disposal Environmental Impact Statement. Therefore, there should not be any "overall military Department disposal plan for the installation" other than the community's consensus base reuse plan.

Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
Phone: (901) 873-2400
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3D814, The Pentagon
Washington, DC 20301-3300**

**From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)**

**Page 53740
Column 3rd
Paragraph 91.7(e)(7)**

Recommended Changes:

In the second sentence of this paragraph, insert the words "the Director of the DoD Base Transition Office and the Director of Economic Adjustment as well as" immediately prior to the words "other Federal agencies . . ."

This sentence should then read, "The Military Department may also consider information independent of the application, such as views of **the Director of the DoD Base Transition Office and the Director of Economic Adjustment** as well as other Federal agencies, appraisals, caretaker costs and other relevant material."

Why:

The DoD Base Transition Office and the Office of Economic Adjustment are intimately involved in the base closure and reuse process and should have input in these decisions.

**Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
Phone: (901) 873-2400
Date: November 29, 1994**

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Amending Sections 91.7(d) (e) & (f)
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From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page 53740
Column 3rd
Paragraph 91.7(e)(6)(vi)

Recommended Changes:

Insert the word "present" immediately prior to the words "fair market value" in the first sentence of this paragraph.

The sentence should then read, "If a transfer is requested for less than the estimated **present** fair market value ("FMV"), with or without initial payment at the time of transfer, then a statement should be provided justifying the discount."

Why:

The narrative on Page 53739 indicates that DoD is obligated properly under Title XXIX "to obtain consideration within the estimated range of present fair market value, or to justify why such consideration was not realized." The change to the cited paragraph is recommended so that it will conform to and reflect the DoD policy as expressed in the narrative on Page 53739.

Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
Phone: (901) 873-2400
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**FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
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From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page 53740
Column 2nd
Paragraph 91.7(e)(6)(iv)(C)

Recommended Changes:

Delete the words "other investments" and substitute the following, "other on-site and off-site improvements directly related to enhancing job creation and value on the property as well as the community planning, marketing and net local property carrying costs" for the words " other investments."

The paragraph should then read, "(C) A cost estimate and justification for infrastructure and other on-site and off-site improvements directly related to enhancing job creation and value on the property as well as the community planning, marketing and net local property carrying costs needed for the development of the EDC parcel."

Why:

Current GSA Federal Property Management Regulations do not recognize off-site infrastructure improvements necessary to provide adequate new public access and/or infrastructure in support of the former military property. These investments, if necessary, create additional value for the subject property and increase the risks for the LRA. Therefore, they must be recognized in this process.

Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
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Amending Sections 91.7(d) (e) & (f)
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From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page 53740
Column 2nd
Paragraph 91.7(e)(6)(iv)(B)

Recommended Changes:

Insert the word "present" immediately prior to the words "fair market value" of this sentence.

The paragraph should then read: "(B) A market and financial feasibility analysis describing the economic viability of the project, including an estimate of net proceeds over a fifteen-year period, the proposed consideration or payment to the Department of Defense, and the estimated **present** fair market value of the property."

Why:

The narrative on Page 53739 indicates that DoD is obligated properly under Title XXIX "to obtain consideration within the estimated range of present fair market value, or to justify why such consideration was not realized." The change to the cited paragraph is recommended so that it will conform to and reflect the DoD policy as expressed in the narrative on Page 53739.

Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
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Millington, TN 38053
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**FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
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From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page 53740
Column 1st
Paragraph 91.7(e)(3)

Recommended Changes:

Add a sentence to this Paragraph as follows: "The Military Department will share the property appraisal with the Local Redevelopment Authority."

Why:

After consulting with the LRA on the valuation assumptions, guidelines and instructions that lead to the estimation of value, it appears logical that the Military Department should share the end product with the LRA. This open exchange of information is needed to encourage DoD-community cooperation and to avoid the adversarial climate that often exists.

Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
Phone: (901) 873-2400
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From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page 53740
Column 1st
Paragraph 91.7(e)(1)

Recommended Changes:

Insert the word "present" immediately prior to the words "fair market value" in the first sentence of this paragraph.

The first sentence should then read, "Section 2903 of Public Law 103-160 gives the Secretary of Defense the authority to transfer property to local redevelopment authorities for consideration in cash or in kind, with or without initial payment or with only partial payment at time of transfer, at or below the estimated **present** fair market value of the property."

Why:

The narrative on Page 53739 indicates that DoD is obligated properly under Title XXIX "to obtain consideration within the estimated range of present fair market value, or to justify why such consideration was not realized." The change to the cited paragraph is recommended so that it will conform to and reflect the DoD policy as expressed in the narrative on Page 53739.

Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
Phone: (901) 873-2400
Date: November 29, 1994

**FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
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3D814, The Pentagon
Washington, DC 20301-3300

From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page 53739
Column 3rd
Paragraph 90.4(b)

Recommended Changes:

Insert the word, "present" immediately prior to the words, "fair market value" in the last sentence of this paragraph.

The sentence should read, "Conveyances to the LRA will be made under terms and conditions designed to facilitate local economic redevelopment and job creation, and may be made at less than **present** fair market value, with proper justification."

Why:

The narrative on Page 53739 indicates that DoD is obligated properly under Title XXIX "to obtain consideration within the estimated range of present fair market value, or to justify why such consideration was not realized." The change to the cited paragraph is recommended so that it will conform to and reflect the DoD policy as expressed in the narrative on Page 53739.

Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
Phone: (901) 873-2400
Date: November 29, 1994

**FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
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3D814, The Pentagon
Washington, DC 20301-3300

From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page 53739
Column 3rd
Paragraph 91.4

Recommended Changes:

Add the word "present" immediately prior to the words "fair market value" in the second sentence of this paragraph.

The sentence should then read: " Conveyances to the LRA will be made under terms and conditions designed to facilitate local economic redevelopment and job creation, and may be made at less than present fair market value, with property (sic) justification."

Why:

The narrative on Page 53739 indicates that DoD is obligated properly under Title XXIX "to obtain consideration within the estimated range of present fair market value, or to justify why such consideration was not realized." The change to the cited paragraph is recommended so that it will conform to and reflect the DoD policy as expressed in the narrative on Page 53739.

Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
Phone: (901) 873-2400
Date: November 29, 1994

**FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
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Send comments to: **Office of Assistant Secretary of Defense for Economic Security**
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Washington, DC 20301-3300

From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page _____
Column _____
Paragraph _____

Recommended Changes:

Why:

Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
Phone: (901) 873-2400
Date: November 29, 1994

Format For Comments On The Interim Rule

Implementing Title XXIX Of The
National Defense Authorization Act for FY 94

Forward comments to: **Office of Assistant Secretary of Defense for Economic Security**
3D814, The Pentagon
Washington, DC 20301-3300

From: Millington Reuse Committee (NAS Memphis)
(Activity/Location/Community/Installation/Group)

Page 16127

Column 3

Paragraph (h)

Recommended Changes:

Substitute the following definition for (h) *Rural*:

(h) *Rural*. An area outside a Metropolitan Statistical Area (MSA) or, any community within a MSA with a civilian population less than 25,000, provided one of the following criteria is met:

- (1) Community boundaries are not contiguous with another metropolitan status city.**
- (2) Community will lose at least 15 percent of its population because of the realignment or closure.**
- (3) Fifteen percent or more of all families fall below the poverty level.**

Why:

Base closure communities within Metropolitan Statistical Areas may be well removed from the central city or its immediate suburbs, and in reality may experience substantial adverse impacts similar to and equally as severe as any rural area. This can be especially true were the community is small and the realignment will remove a significant percentage of the population of the community, or where the poverty level of the community is already high.

Name: Phillip L. Whittenberg
Address: Millington Base Reuse Committee
N-201 Bougainville
Millington, TN 38053
Phone: (901) 873-2400

FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
FINAL RULE

Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994

Send comments to: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

Or transmit by electronic mail to: atkinjn@acq.osd.mil

From: _____
(Activity/Location/Community/Installation/Group)

Page #: _____

Paragraph: _____

Subject: _____

Recommended Change or Comment:

Rationale:

Name:

Address:

Phone:

Date:

Village of GLENVIEW

Office of the President

TELEPHONE
708-724-1700
FAX 708-724-0916



December 20, 1994

1225 WAUKEGAN ROAD
GLENVIEW, ILLINOIS 60025-3071

Mr. Joshua Gotbaum
Assistant Secretary of Defense for Economic Security
Room 3D814
The Pentagon
Washington, D.C. 20301-3300

Dear Mr. Gotbaum:

As President of the Village of Glenview, the Local Redevelopment Authority (LRA) responsible for the redevelopment of NAS Glenview, I am pleased to report that your actions relating to public comments on the Interim Final Rule have been well received locally in Glenview. Specifically, the deletion of the so-called "Jobs-Centered Property Disposal" section represents a clear decision on behalf of the Department of Defense to develop a true partnership with the community adversely impacted by a closing military facility. Additionally, the new Economic Development Conveyance (EDC) procedures enable greater flexibility in conveying federal property while simultaneously empowering the LRAs to take the lead in the economic redevelopment and job creation process.

Attached please find comments on the Amendments to the Interim Final Rule [amending sections 91.7(d), (e) and (f) of the Interim Final Rule published April 6, 1994.]

The major concerns of the Glenview Naval Air Station Community Reuse Planning Group include: (1) changing the bias relating to utilizing EDCs from "last resort" to "when the LRA determines it is appropriate"; (2) establishing a minimum time period to complete an EDC application - 6 months after submission of the redevelopment plan; (3) establishing a maximum time period for the Military Department to review the EDC application - 30 days; (4) consistently addressing present fair market value; and (5) recognizing the need for on- and off-site improvements during the redevelopment process.

I believe these changes will strengthen our partnership and ability to successfully achieve President Clinton's plan to revitalize base closure communities.

Thank you for this opportunity to provide input to the regulations implementing the Pryor Amendment. We look forward to receiving amendments to the remainder of the Interim Final Rule, and will swiftly and cooperatively provide comments when needed.

Sincerely,

Nancy L. Fifer
Village President/Chairperson,
GNAS Community Reuse Planning Group

il

RECEIVED

DEC 28 1994

OASD(ES)

COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE

Amending Sections 91.7(d),(e)&(f)
of the Interim Final Rule Published April 6, 1994

From: GNAS Community Reuse Planning Group

Page #: 53736

Paragraph: C

Subject: When an EDC should be used

Recommended Change or Comment:

Replace the discussion on when an EDC should be used with the following:

*When should an EDC be used?

The LRA is responsible for determining and requesting the appropriate Federal property disposal method. The EDC should be used when the LRA wants to obtain property for economic redevelopment and job generating purposes, and it is not practicable to pay fair market value at the time of transfer.

Additionally, since an EDC provides the most flexibility to respond to changing market realities, it may be the preferred method of property disposal to achieve President Clinton's five part program to revitalize base closure communities, even when other disposal methods are possible.

The Federal Property and Administrative Services Act (FPASA) of 1949 (40 U.S.C. 484) and airport public benefit authorities (49 U.S.C. 47151-47153) allow for public benefit transfers to units of government or non-profit institutions that maintain the use of property for a public purpose including, but not limited to, parks, public health, education, aviation, historic monuments, and prisons.

The FPASA also allows for negotiated sales at fair market value to public purposes or direct sales through a public bid process.

Rationale:

The current language is too restrictive in nature and has a detrimental bias toward "justifying the existence" of Federal agencies sponsoring public benefit conveyances (PBCs) by forcing LRAs to use these methods of property transfer instead of EDCs. Furthermore, the regulations relating to PBCs do not allow partnerships between different types of public agencies (ie. park, school, library districts) to co-locate operations which could decrease the total number of acres required (which achieves the objective of creating more acreage for economic redevelopment

and job creation). The recommended regulations maximize the ability of the LRAs to deal with a changing market as the development progresses. **The EDC should not be relegated to a conveyance of last resort!**

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

**COMMENTS ON THE AMENDMENT TO THE
INTERIM FINAL RULE**
Amending Sections 91.7(d), (e) & (f)
of the Interim Final Rule Published April 6, 1994

From: GNAS Community Reuse Planning Group

Page #: 53737

Paragraph: C

Subject: Who can receive an EDC

Recommended Change or Comment:

Change the second sentence to read as follows:

An LRA is the only entity eligible to receive property under an Economic Development Conveyance. **At a minimum, an LRA should have zoning authority and subdivision control over the property.**

Rationale:

This language appropriately identifies the minimum requirements of an LRA without defining the composition of an LRA. LRA composition is separately defined and approved by the Office of Economic Adjustment, which recognizes the statutory framework and requirements among the fifty states.

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**Amending Sections 91.7(d), (e) & (f)
of the Interim Final Rule Published April 6, 1994**

From: GNAS Community Reuse Planning Group

Page #: 53738

Paragraph: C

Subject: How much property should be included in an EDC application

Recommended Change or Comment:

Add the following sentence to the end of the paragraph:

The EDC should be used by LRAs to obtain large parcels ... to assist in long-term development of the property. **An entire base may be requested if properly supported and justified by a business plan.**

Rationale:

This language identifies the maximum limit of an EDC.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE

Amending Sections 91.7(d),(e)&(f)
of the Interim Final Rule Published April 6, 1994

From: GNAS Community Reuse Planning Group

Page #: 53739

Paragraph: C

Subject: Guidelines for determining the terms and conditions of consideration

Recommended Change or Comment:

Change the second paragraph to read as follows:

Taking into account all information provided in the EDC application and any additional information considered relevant, the Military Department will contract for or prepare an estimate of the **present** fair market value of the property (**as is, where is**), which may be expressed as a range of values. **This estimate shall be completed not later than 30 days after receipt of the redevelopment plan.** The Military Department shall consult with the LRA on valuation assumptions, guidelines and on instructions given to the person(s) making the estimation of value, **and may jointly participate with the LRA in this estimation process.** The Military Department shall provide the completed estimation of value to the LRA when it is available.

Rationale:

This language specifies **present** fair market value, adds a deadline for completion of the estimation, enables joint participation and strengthen the partnership between the Military Department and the LRA, and ensures that the LRA receives the information as soon as it is available.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE

Amending Sections 91.7(d), (e) & (f)
of the Interim Final Rule Published April 6, 1994

From: GNAS Community Reuse Planning Group

Page #: 53740

Paragraph: 91.7(e)(2)

Subject: When an EDC should be used

Recommended Change or Comment:

Delete paragraph and replace with the following:

(2) The LRA is responsible for determining and requesting the appropriate Federal property disposal method. The EDC should be used when the LRA wants to obtain property for economic redevelopment and job generating purposes, and it is not practicable to pay fair market value at the time of transfer.

Additionally, since an EDC provides the most flexibility to respond to changing market realities, it may be the preferred method of property disposal to achieve President Clinton's five part program to revitalize base closure communities, even when other disposal methods are possible.

Rationale:

The current language is too restrictive in nature and has a detrimental bias toward "**justifying the existence**" of Federal agencies sponsoring public benefit conveyances (PBCs) by forcing LRAs to use these methods of property transfer instead of EDCs. Furthermore, the regulations relating to PBCs do not allow partnerships between different types of public agencies (ie. park, school, library districts) to co-locate operations which could decrease the total number of acres required (which achieves the objective of creating more acreage for economic redevelopment and job creation). The recommended regulations maximize the ability of the LRAs to deal with a changing market as the development progresses. **The EDC should not be relegated to a conveyance of last resort!**

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GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

**COMMENTS ON THE AMENDMENT TO THE
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Amending Sections 91.7(d),(e)&(f)
of the Interim Final Rule Published April 6, 1994

From: GNAS Community Reuse Planning Group

Page #: 53740

Paragraph: 91.7(e)(3)

Subject: Estimation of present fair market value

Recommended Change or Comment:

Change paragraph to read as follows:

(3) Before making an EDC, the Military Department must prepare an estimate of the present fair market value of the property (as is, where is), which may be expressed as a range of values. **This estimate shall be completed not later than 30 days after receipt of the redevelopment plan.** The Military Department shall consult with the Local Redevelopment Authority on valuation assumptions, guidelines and on instructions given to the person(s) making the estimation of value, **and may jointly participate with the LRA in this estimation process.** The Military Department shall provide the completed estimation of value to the LRA when it is available.

Rationale:

This language adds a deadline for completion of the estimation, enables joint participation and strengthen the partnership between the Military Department and the LRA, and ensures that the LRA receives the information as soon as it is available.

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GNAS Community Reuse Planning Group

Address: Village of Glenview
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Glenview, IL 60025

Phone: (708) 724-1700

COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE

**Amending Sections 91.7(d),(e)&(f)
of the Interim Final Rule Published April 6, 1994**

From: GNAS Community Reuse Planning Group

Page #: 53740

Paragraph: 91.7(e)(4)

Subject: Minimum requirements of an LRA

Recommended Change or Comment:

Change the second sentence to read as follows:

(4) A Local Redevelopment Authority (LRA) is the only entity able to receive property under an Economic Development Conveyance. **At a minimum, an LRA should have zoning authority and subdivision control over the property.**

Rationale:

This language appropriately identifies the minimum requirements of an LRA without defining the composition of an LRA. LRA composition is separately defined and approved by the Office of Economic Adjustment, which recognizes the statutory framework and requirements among the fifty states.

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GNAS Community Reuse Planning Group

Address: Village of Glenview
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COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE

**Amending Sections 91.7(d), (e) & (f)
of the Interim Final Rule Published April 6, 1994**

From: GNAS Community Reuse Planning Group

Page #: 53740

Paragraph: 91.7(e)(5)

Subject: EDC application time period

Recommended Change or Comment:

Add a new sentence after the third sentence to read as follows:

(5) A properly completed application will be the basis for a decision on whether an LRA will be eligible for an Economic Development Conveyance. An application should be submitted by the LRA after a Redevelopment Plan is adopted by the LRA. The Secretary of the Military Departments shall establish a reasonable time period for submission of the EDC application after consultation with the LRA. **LRAs shall have a minimum of six (6) months after submission of the redevelopment plan to submit an application for an Economic Development Conveyance.** The Services ... of this section.

Rationale:

This language guarantees that LRAs will have a reasonable period of time after submission of the redevelopment plans to complete their applications for EDCs.

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GNAS Community Reuse Planning Group

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From: GNAS Community Reuse Planning Group

Page #: 53740

Paragraph: 91.7(e)(6)(v)

Subject: Statement concerning Negotiated Sale/Public Benefit
Conveyances

Recommended Change or Comment:

Change paragraph to read as follows:

(v) A statement describing ... and wildlife conservation--~~were~~
~~not~~ used to accomplish the economic development and job creation
goals.

Rationale:

This removes the inappropriate "burden of proof" directive to
justify why a negotiated sale or public benefit conveyance could
not be used and replaces it with a requirement to state why they
were not chosen.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
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Amending Sections 91.7(d),(e)&(f)
of the Interim Final Rule Published April 6, 1994

From: GNAS Community Reuse Planning Group

Page #: 53740

Paragraph: 91.7(e)(7)

Subject: EDC application processing

Recommended Change or Comment:

Change the first sentence to read as follows:

(7) After receipt of an application for an EDC, the Secretary of the Military Department **shall evaluate it within 30 days to** determine whether the terms and conditions proposed are fair and reasonable. The Military Department ... it considers necessary.

Rationale:

This time period ensures no excessive delays are allowed within the application processing phase.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

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of the Interim Final Rule Published April 6, 1994**

From: GNAS Community Reuse Planning Group

Page #: 53740

Paragraph: 91.7(e)(7)

Subject: EDC application processing

Recommended Change or Comment:

Add a new sentence after the second sentence to read as follows:

(7) After receipt ... caretaker costs and other relevant material. When such information is solicited or received, it shall be provided to the LRA. An EDC supporting the local redevelopment plan should normally take precedence over conflicting information or views. The Military Department ... considers necessary.

Rationale:

Mutual sharing of information enhances the cooperative nature of the partnership between the Military Department and the LRA. In keeping with the "Preferred Alternative" concept for the redevelopment plan, the EDC application should be the "Preferred Alternative" for conveyance if requested by the LRA.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE

**Amending Sections 91.7(d), (e) & (f)
of the Interim Final Rule Published April 6, 1994**

From: GNAS Community Reuse Planning Group

Page #: 53741

Paragraph: 91.7(f)(1)(i)

Subject: Consideration within the estimated range of present fair market value

Recommended Change or Comment:

Add qualifying information to the paragraph as follows:

(i) Consideration within the estimated range of present fair market value ... at the time of application. **The Military Department can be flexible about the terms and conditions of payment, and can provide financing on the property. The payment can be in cash or in-kind, and can be paid at time of transfer or at a time in the future. The Military Departments will have the discretion and flexibility to enter into agreements that specify the form and amount of consideration and ensures that consideration is within the estimated range of fair market value at the time of application. Such methods of payment could include: participation in the gross or net cash flow, deferred payments, mortgages or other financing arrangements.**

Rationale:

This language from the discussion section of the rules is extremely important and should be included in the procedures (91.7(f)).

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

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**Amending Sections 91.7(d), (e) & (f)
of the Interim Final Rule Published April 6, 1994**

From: GNAS Community Reuse Planning Group

Page #: 53741

Paragraph: 91.7(f)(1)(ii)

Subject: Consideration below the estimated range of present fair market value

Recommended Change or Comment:

Change the first sentence and add qualifying information as follows:

(ii) Consideration can be below the estimated range of **present** fair market value, when proper justification is provided. The amount ... necessary for economic redevelopment and job creation. **As stated in paragraph 91.7(f)(1)(i) above, the terms and conditions of payment will be negotiated between the Military Department and the LRA.**

Rationale:

This language from the discussion section of the rules is extremely important and should be included in the procedural section of the rules (91.7(f)).

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

**COMMENTS ON THE AMENDMENT TO THE
INTERIM FINAL RULE**

**Amending Sections 91.7(d),(e)&(f)
of the Interim Final Rule Published April 6, 1994**

From: GNAS Community Reuse Planning Group

Page #: 53739, 53740, and 53741

Paragraph: 90.4, 91.4, 91.7(e)(1), 91.7(e)(6)(iv)(B),
91.7(e)(6)(vi), 91.7(f)(1), 91.7(f)(1)(ii), 91.7(f)(4)

Subject: "Present" fair market value

Recommended Change or Comment:

Add "present" to all references to fair market value.

Rationale:

The term "present fair market value" must be used consistently in the rules.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

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**Amending Sections 91.7(d),(e)&(f)
of the Interim Final Rule Published April 6, 1994**

From: GNAS Community Reuse Planning Group

Page #: 53740

Paragraph: 91.7(e)(6)(iv)(C)

Subject: Infrastructure costs

Recommended Change or Comment:

Change paragraph to read as follows:

(C) A cost estimate and justification for infrastructure and other on-site and off-site improvements directly related to enhancing economic redevelopment, job creation, and value on the property as well as the community planning, marketing, and net local property carrying costs needed for the development of the EDC parcel.

Rationale:

There must be an explicit recognition that the communities and their LRAs will likely be the risk-takers in the redevelopment process. Moreover, the GSA Federal Property Management Regulations do not presently recognize off-site infrastructure improvements which will be necessary to provide adequate new public access to the former bases - thereby enhancing economic redevelopment, job creation, and value.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
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Phone: (708) 724-1700

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of the Interim Final Rule Published April 6, 1994**

From: GNAS Community Reuse Planning Group

Page #: 53740

Paragraph: 91.7(e)(8)(viii)

Subject: EDC application evaluation criteria

Recommended Change or Comment:

Delete entire paragraph and renumber subsequent paragraphs as appropriate.

Rationale:

An overall Military Department disposal plan has not been distributed to LRAs, and therefore should not be referenced in the evaluation criteria.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

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Amending Sections 91.7(d),(e)&(f)
of the Interim Final Rule Published April 6, 1994

From: GNAS Community Reuse Planning Group

Page #: 53741

Paragraph: 91.7(e)

Subject: EDC decision

Recommended Change or Comment:

Add new subsection 91.7(e)(9) as follows:

(9) The Military Department should advise the Assistant Secretary of Defense (Economic Security) of any final decision on a community EDC application that differs with regard to terms and conditions from those recommended by the LRA.

Rationale:

This language ensures that ASD(ES) is informed when the Military Service elects not to accept an EDC application as submitted by an LRA.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

**COMMENTS ON THE AMENDMENT TO THE
INTERIM FINAL RULE**

**Amending Sections 91.7(d),(e)&(f)
of the Interim Final Rule Published April 6, 1994**

From: GNAS Community Reuse Planning Group

Page #: 53741

Paragraph: 91.7(f)(2)

Subject: Excess profits

Recommended Change or Comment:

Change third sentence to read as follows:

(2) The amount of consideration ... agreed upon consideration. Also, the standard GSA excess profits clause, appropriately tailored to **include the infrastructure and other on- and off-site improvement costs directly related to the transaction**, will be used in the conveyance documents to the LRA.

Rationale:

This language recognizes that certain infrastructure and on- and off-site improvement costs will be accounted for when determining excess profits.

Name: Paul T. McCarthy, Village Manager/Executive Director
GNAS Community Reuse Planning Group

Address: Village of Glenview
1225 Waukegan Road
Glenview, IL 60025

Phone: (708) 724-1700

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THICKSTEN GRIMM BURGUM, INC.

106 North Carolina Avenue, S. E.

Washington, D. C. 20003-1841

December 26, 1994

RECEIVED

DEC 27 1994

OASD(ES)

The Honorable Joshua Gotbaum
Assistant Secretary of Defense
Economic Security
Room 3D814
The Pentagon
Washington, DC 20301-3306

Dear Mr. Gotbaum:

Per your letter of October 26, 1994, the following are comments on the Amendment to the Interim Final rule amending Sections 91.7 (d)(e) & (f) of the Interim Final Rule published April 6, 1994.

Our firm was the technical consultant to the University of California, Santa Cruz assisting in the negotiation of an Economic Development Conveyance of certain parcels of Fort Ord property. We are currently actively assisting two other community entities in their attempts to obtain Economic Development Conveyances. We are therefore one of the few firms which has actual hands on experience in this process.

Based on our experience, we believe that the following comments are relevant.

1. The overriding Congressional intent which resulted in the passage of Section 2903 of Public Law 103-160 was to foster economic redevelopment in areas where military installations are closing. Section 2903 was intended to provide a mechanism to convey closing military installation property at no cost and without use restrictions to foster job creation. Notwithstanding the intent of this legislation, the Department of Defense focus is on property disposal with the overriding objective of generating revenue and depositing it into the Base Closure Account. This Amendment places much more emphasis on requiring local communities to compensate the federal government for conveyed property. The evidence of this is the emphasis on requiring the negotiation of an up front payment and the stated evaluation criteria which requires "Economic benefit to the federal Government,

including protection and maintenance cost savings and anticipated consideration from the transfer." What has occurred in the negotiations we have been/are involved in is the following. In the Fort Ord negotiations, some consideration was given to job creation and economic redevelopment. Since this Amendment was issued, the emphasis has shifted almost entirely back to generating revenue for the Base Closure Account. The objectives of job creation/economic redevelopment and the generation of revenue for the Base Closure Account are in direct conflict. The Department of Defense should make a decision in regard to its priorities. If job creation/economic redevelopment is the priority, property should be conveyed to local community entities at no cost and without use restrictions. If the generation of revenue for the Base Closure Account is the priority, the community planning process should be eliminated and excess property should simply be sold by the General Services Administration at auction to the highest bidder.

2. The Interim Rule issued April 6, 1994 set forth four requirements for applying for an Economic Development Conveyance. These requirements were simple and straightforward and provided local community entities with the basis early on and at very little cost to determine whether they would qualify for an Economic Development Conveyance. The Economic Development Conveyance application requirements delineated in the Amendment have seven requirements for the application which are extremely complex, significantly expanded, and very inflexible. There is a stated requirement for "A business and development plan for the Economic Development Conveyance parcel." The net result is two fold: (a) a complete reuse plan must exist in order to construct a comprehensive and credible business plan and apply for the Economic Development Conveyance and (b) the costs of applying for the Economic Development Conveyance have increased substantially.

- a) The requirement to have a complete reuse and business plan could be a misallocation of resources. Several hundred thousand dollars will be required to produce the required documentation. The Department of Defense may then reject the Economic Development Conveyance application. This would cause the local community entity to have to spend additional money to restructure the reuse plan based on transferring the property with conventional property conveyance mechanisms.

- b) One of our clients was well along in both the reuse planning process and in their preparation of the Economic Development Conveyance application when the Amendment was issued. The Department of Defense then informed the client entity that it must prepare a comprehensive business plan under the terms and conditions of the Amendment. Even though the existing reuse planning process was well along and very comprehensive, an additional expenditure of approximately one hundred thousand (\$100,000.00) dollars was required to construct the business plan. This is extremely burdensome for a public entity with limited resources.

The new Economic Development Conveyance requirements are excessive, burdensome, and costly. One wonders if these requirements are designed to limit the number of applications. Regardless of whether this is the intention, the practical effect will be to reduce the number of applicants due to an inability of many entities to incur the required documentation preparation costs.

- 3. The entire Department of Defense installation reuse/redevelopment strategy governing property conveyance and federal funding opportunities is centered around the affected local communities reaching an agreement to create one Local Redevelopment Authority to receive property and federal funding. This concept is flawed for several reasons:

- b) Individual community entities which are part of a large Local Redevelopment Authority, but disagree with the land/redevelopment plan recommended by that authority will be outvoted on decisions which determine land parcelization delineated by the Department of Defense Record of Decision. However, if these local community entities have zoning authority, in the end they can stop the development agreed to by the Department of Defense and the Local Redevelopment Authority.

- a) Current Department of Defense policy is to fund federal planning grants only through the recognized Local Redevelopment Authorities. This means that in jurisdictions which are comprised of a number of communities having geographic ties to closing military installations, federal reuse planning grants will be given only to the Local Redevelopment Authority which is comprised of all of these affected local communities. If one of these communities wants to include an element in the planning process, and if the majority of the communities which comprise the Local Redevelopment

Authority disagree, then this element will not be funded. If this element is then not included in base reuse plan, it will not be incorporated in the Department of Defense Record of Decision for property conveyance.

In the end of this process may construct elaborate planning documents, but result in little land reuse or economic redevelopment. The dissident local communities may be able to block redevelopment indefinitely through the use of zoning prerogatives.

The recommended solution to this problem is two fold:

- a) Funding should be made available to individual community entities for worthy projects.
 - b) The Department of Defense Record of Decision should be made only after considering the desires of local community entities which have zoning authority.
4. Under the Amendment, closing military installation property can be conveyed under an Economic Development Conveyance only to a Local Redevelopment Authority. The Amendment implied that it is then permissible for the Local Redevelopment Authority to reconvey the property under the same terms and conditions to another entity, such as a county, city or university system. This methodology on the surface appears to have merit and be workable. However, our experience to date in working with community entities attempting to obtain this type of conveyance, indicates that in practice the Department of Defense, and the Military Services have problems in implementing this property conveyance concept. The Department of Defense needs to issue clear guidelines which clearly grant the Authority for this type of conveyance.
5. An inherent conflict of interest is evident in the continued and substantial influence and control that the Department of Defense has on the success and eventual outcome of the reuse process. This influence includes the approval authority for property conveyance applications made by other Federal Agencies and by State Agencies. With or without a community reuse plan, the Department of Defense has the ability to approve land transfer requests that essentially 'develop the community reuse plan' without the community at the table. The significant influence of the Department of Defense over the community reuse effort extends to planning funds. For instance, the initial funding made available to a community reuse effort is controlled by the Department of Defense's

Office of Economic Adjustment (OEA); both the amount of funding made available to the community and the approval of the purpose. This initial funding is critical and should be flexible to allow the communities to respond to the crisis of closure. These funds also need to be targeted at more than infrastructure analysis and short term job development. Funding needs to be made available that looks to integrate regional resources into the reuse effort for the purpose of ensuring long-term success and job development. A fixation on expeditious job development may not realistically look at the development of a sustainable economy. As we are finding, though there are dollars available for "retraining of displaced defense workers" the problem of "retraining for what" continues to surface. It is this "for what" part of the equation that needs to be addressed as aggressively as the location and condition of the utility lines. At Fort Ord, the OEA would not, and has never, agreed to fund economic development planning funding as requested by the University of California. These funds were eventually provided by the Department of Commerce's Economic Development Administration (EDA). It took much effort and determination to have the funds made available for the University of California reuse effort. An ironic twist is that the economic assessment of the conceptual reuse plan at Fort Ord, prepared for the United States Army Corps of Engineers by an outside consultant, indicates that the University's proposed reuse effort at Fort Ord will be one of the significant economic engines of the total base reuse; this, despite the initial lack of support from the Department of Defense.

6. The Department of Defense clearly has the ability through the award of planning funding and the Record of Decision process which determines ultimate conveyance and land uses, to dictate a reuse which is not consistent with the Local Redevelopment Authority's intended plans. Thus, the fair market value of the property may change substantially due to Department of Defense parcelization and Record of Decision reuse constraints. In negotiating the purchase of military installation property, the fair market value after reuse has been implemented, rather than the fair market value at the time of the sale, should be considered. This policy should be reflected in the Final Rule.

We hope that our comments result in changes not only in the Amendment to the Interim Rule, but also to certain Department of Defense policy. If you have questions or require further information, please call me at (202) 546-3414.

Sincerely,

Rodman D. Grimm

Rodman Grimm

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ECONOMIC
SECURITY

19

ASSISTANT SECRETARY OF DEFENSE

3300 DEFENSE PENTAGON
WASHINGTON DC 20301-3300



October 26, 1994

Mr. Rodd Grimm
106 North Carolina Avenue, SE
Washington, DC 20003

Dear Mr. Grimm,

Because of your interest in the Department's procedures for the conveyance of surplus base closure properties, I want to update you on the changes we are making.

In order to encourage more rapid reuse and more effective job creation, we are changing the procedures published in the *Federal Register* last April 6. Effective immediately, the Department will:

- Transfer property under "Economic Development Conveyances" (EDCs) based upon locally-developed reuse plans.
- Eliminate requirements for market surveys and separate "market testing" prior to development of a reuse plan.
- Give greater flexibility to the military services and communities in negotiating the terms and conditions of an EDC.

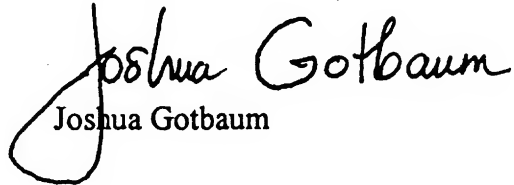
In addition, the new amendment establishes criteria for judging the adequacy of a plan. A detailed application, including the approved community redevelopment plan, will now be the basis for a determination of whether or not a Local Redevelopment Authority will be eligible for an EDC. These changes were published in the *Federal Register* on October 26, 1994. A copy is attached.

These changes are extensive and we welcome your comments and suggestions about them. All comments should be in writing and received by December 26, 1994. Please send them to: Office of the Assistant Secretary of Defense for Economic Security, Room 3D814, The Pentagon, Washington, D.C. 20301-3300. You may also send them by electronic mail to: atkinjn@acq.osd.mil. When submitting your comments, if at all possible please use the attached format to help us review and catalog them. We expect to develop our procedures more fully and issue final regulations concerning them early next year.



Your comments help us assist communities with reuse of former military bases and we appreciate them. If you have any questions, please contact Rob Hertzfeld at (703) 604-5690.

Sincerely,


Joshua Gotbaum

Enclosures

#19



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 22 1994

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. Joshua Gotbaum
Office of the Assistant Secretary
of Defense (Economic Security)
The Pentagon, Room 3D814
Washington, D.C. 20301-3300

Dear Mr. Gotbaum:

I am responding to your October 26, 1994, letter to Elliott P. Laws, the Assistant Administrator for Solid Waste and Emergency Response, requesting comments on the October 26, 1994 amendments to the April 6, 1994 Interim Final rule published by the Department of Defense (DoD) to implement Section 2903 of the National Defense Authorization Action for Fiscal Year 1994 (Public Law 103-160). The amendments are intended to clarify the application process and the criteria that will be used to evaluate applications by Local Redevelopment Authorities for Economic Development Conveyances at closing military bases. Our comments are as follows.

Amended section 91.7(e)(4) provides that the Local Redevelopment Authority (LRA) is the only entity able to receive property under an Economic Development Conveyance (EDC), and that the Secretary of Defense is obligated to "recognize an LRA for planning and/or implementation...." However, the term "Local Redevelopment Authority" is not defined in the October 26, 1994 amendments, nor is it defined in the April 6, 1994 Interim Final rule. Section 91.3(g) of the April 6, 1994 version does define the term "Redevelopment authority". Accordingly, it is unclear what constitutes an LRA and what criteria are to be used to "recognize" such organizations. For clarity, we suggest that the term be defined and the recognition criteria be enumerated in the rule.

Amended section 91.7(e)(7) provides that for EDC applications, the Military Department may consider information independent of such application, such as views of other Federal agencies. However, it is unclear what mechanism or process will be used to solicit from these Federal agencies such information. Similarly, it is unclear how the requirements of amended section 91.7(e)(8)(vii), to evaluate such EDC applications in light of other Federal agency interests and concerns, will be implemented.



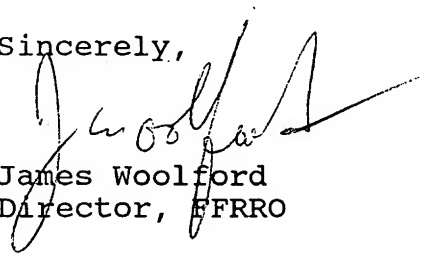
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- 2 -

It is suggested that the process for soliciting and communicating these Federal agency interests, concerns, and other relevant information be clearly stated in the rule.

If you have any questions concerning these comments, please have your staff contact Seth Thomas Low of the Federal Facilities Restoration and Reuse Office (FFRRO). He may be reached at (202) 260-8692.

Sincerely,



James Woolford
Director, FFRRO

cc: Elliott P. Laws
Timothy Fields, Jr.
Seth Thomas Low

RECEIVED

DEC 27 1994

OASD(ES)

Jeffry G. Price

Attorney-at-Law

15 South Wabash Street

Peru, Indiana 46970

Office (317) 472-3339

Fax No. (317) 472-4246

20

December 22, 1994

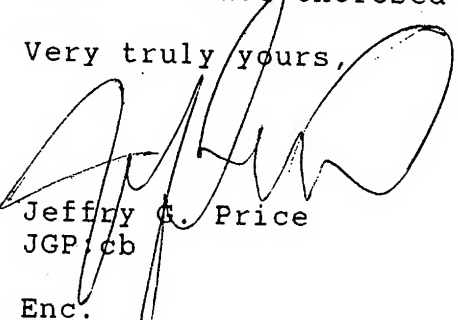
Mr. Joshua Gotbaum
Assistant Secretary of Defense
Economic Security
Room 3D814
3300 Defense Pentagon
Washington DC 20301-3300

RE: Comments on the Amendment to the Interim Final Rule

Dear Mr. Gotbaum:

Enclosed please find Comments on the Amendment to the Interim Final Rule. I have enclosed eleven (11) Comments for your review.

Very truly yours,



Jeffry G. Price
JGP:cb

Enc.

RECEIVED

DEC 28 1994

OASD(ES)

**FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
FINAL RULE**

Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994

Send comments to: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

Or transmit by electronic mail to: atkinjn@acq.osd.mil

From: Grissom Redevelopment Authority (Grissom Air Force Base)
(Activity/Location/Community/Installation/Group)

Page #: 53739

Paragraph: 91.4

Subject: Policy

Recommended Change or Comment: "Present" before the phrase fair
market value as it appears throughout.

Rationale: The phrase "present fair market value" also appears on page 53739, Federal Register, Volume 59, No. 206 under the DOD narrative discussion, column No. 1. The change requested simply reflects DOD's intention and the fact that present value is the starting point, not best or highest value.

Name: Jeffery G. Price, Attorney for Grissom Redevelopment Authority
Address: 15 S. Wabash ST.
Peru, IN 46970
Phone: 317/472-3339
Date: 12/22/94

FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
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From: Grissom Redevelopment Authority (Grissom Air Force Base)
(Activity/Location/Community/Installation/Group)

Page #: 53740

Paragraph: 91.7(e) (1)

Subject: Fair Market Value

Recommended Change or Comment: Insert the word "present" before
the phrase fair market value.

Rationale: The phrase "present fair market value" also appears
on page 53739, Federal Register, Volume 59, No. 206 under the
DOD narrative discussion, column No. 1. The change requested
simply reflects DOD's intention and the fact that present value
is the starting point, not best or highest value.

Name: Jeffry G. Price, Attorney for Grissom Redevelopment Authority
Address: 15 S. Wabash St.
Peru, IN 46970

Phone: 317/472-3339

Date: 12/22/94

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From: Grissom Redevelopment Authority (Grissom Air Force Base)
(Activity/Location/Community/Installation/Group)

Page #: 53740

Paragraph: 91.7(e) (3)

Subject: Property Appraisal

Recommended Change or Comment: Add: "The Military Department shall provide a copy of its property appraisal to the local redevelopment authority".

Rationale: The open exchange of information is needed to encourage DOD - LRA cooperation and avoid a confrontational climate. The DOD and the LRA should be working together toward the same goal and the free exchange of appraisal information is necessary.

Name: Jeffry G. Price, Attorney for Grissom Redevelopment Authority
Address: 15 S. Wabash St.
Peru, IN 46970

Phone: 317/472-3339

Date: 12/22/94

FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
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Page #: 53740

Paragraph: 91.7(e) (6) (iv) (C)

Subject: _____

Recommended Change or Comment: Revise this sentence to read: "A cost estimate and justification for infrastructure and other on-site and off-site improvements directly related to enhancing job creation and value on the property as well as the community planning, marketing and net local property carrying costs needed for the development of the EDC parcel."

Rationale: To explicitly recognize the cost and risk undertaken by the LRA as to the parcel in question.

Name: Jeffry G. Price, Attorney for Grissom Redevelopment Authority
Address: 15 S. Wabash St.
Peru, IN 46970
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Date: 12/22/94

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(Activity/Location/Community/Installation/Group)

Page #: 53740

Paragraph: 91.7(e) (6) (iv) (B)

Subject: _____

Recommended Change or Comment: "future" before the phrase fair market value so that the sentence reads "The estimated future fair market value of the property."

Rationale: This change promotes clarity and distinguishes the previous present fair market value from the future fair market value of the property in question.

Name: Jeffry G. Price, Attorney for Grissom Redevelopment Authority
Address: 15 S. Wabash St.
Peru, IN 46970

Phone: 317/472-3339

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(Activity/Location/Community/Installation/Group)

Page #: 53740

Paragraph: 91.7(e) (6) (vi)

Subject: Present Fair Market Value

Recommended Change or Comment: Insert the word "present" before the
phrase fair market value.

Rationale: This change is in keeping with the DOD narrative
discussion as found on page 53739, Column 1, Paragraph numbered
1.

Name: Jeffry G. Price, Attorney for Grissom Redevelopment Authority
Address: 15 S. Wabash St.
Peru, IN 46970
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From: Grissom Redevelopment Authority (Grissom Air Force Base)
(Activity/Location/Community/Installation/Group)

Page #: 53740

Paragraph: 91.7(e) (7)

Subject: Who participates in Consideration of the Application for an EDC

Recommended Change or Comment: Add the phrase "the director of the DOD Base Transition Office and the Director of Economic Adjustment as well as " just before the words: "... other federal agencies, appraisals, caretaker costs and other relevant material".

Rationale: These persons offer insights that may not be reflected in the Military Department's assessment of the situation.

Name: Jeffry G. Price, Attorney for Grissom Redevelopment Authority
Address: 15 S. Wabash St.
Peru, IN 46970

Phone: 317/472-3339

Date: 12/22/94

FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
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Amending Sections 91.7(d) (e) & (f)
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Page #: 53740

Paragraph: 91.7(e) (7) (viii)

Subject: Military Department Disposal Plant

Recommended Change or Comment: Delete this provision entirely.

Rationale: If the Military Department has followed the guidance provided in Paragraph 91.7(c) of the regulation as promulgated April 6, 1994, the community's consensus Base Re-Use Plan is the preferred alternative and there should not be any Military Department Disposal Plan to the contrary.

Name: Jeffery G. Price, Attorney for Grissom Redevelopment Authority
Address: 15 S. Wabash St.
Peru, IN 46970
Phone: 317/472-3339
Date: 12/22/94

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3D814, The Pentagon
Washington, D.C. 20301-3300

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From: Grissom Redevelopment Authority (Grissom Air Force Base)
(Activity/Location/Community/Installation/Group)

Page #: 53741

Paragraph: 91.7(e) (9)

Subject: Notice of Differing Recommendations from the Military Department

Recommended Change or Comment: Add the following new sub-section: "The Military Department should advise the Assistant Secretary of the Defense (Economic Security) of any final decision on a community application that differs with regard to terms or conditions from those recommended by the director of the Base Transition Office or the Director of Economic Adjustment."

Rationale: The open exchange of information is critical to the prompt redevelopment of all closed military installations.

Name: Jeffry G. Price, Attorney for Grissom Redevelopment Authority
Address: 15 S. Wabash St.
Peru, IN 46970
Phone: 317/472-3339
Date: 12/22/94

FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
FINAL RULE

Amending Sections 91.7(d) (e) & (f)
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3D814, The Pentagon
Washington, D.C. 20301-3300

Or transmit by electronic mail to: atkinjn@acq.osd.mil

From: Grissom Redevelopment Authority (Grissom Air Force Base)
(Activity/Location/Community/Installation/Group)

Page #: 53741

Paragraph: 91.7(f) (1)

Subject: Clarify the term fair market value

Recommended Change or Comment: Insert the word "present" before the phrase fair market value wherever it appears in Sub-Section F.

Rationale: This clarification is consistent with the DOD narrative discussion found at Page 53739, Column 1, Paragraph No. 1.

Name: Jeffry G. Price, Attorney for Grissom Redevelopment Authority
Address: 15 S. Wabash St.
Peru, IN 46970
Phone: 317/472-3339
Date: 12/22/94

FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
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Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994

Send comments to: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, D.C. 20301-3300

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From: Grissom Redevelopment Authority (Grissom Air Force Base)
(Activity/Location/Community/Installation/Group)

Page #: 53741

Paragraph: 91.7(f) (3)

Subject: Definition of the term "rural"

Recommended Change or Comment: To delete the present definition of "rural area" as provided in the rule. Second, this Sub-Section should be clarified to establish a simple mechanism for determining whether the installation is in a rural area, as provided under the new expanded definition. Finally, if the installation is in a newly defined rural area, this Sub-Section should make it clear that the application need not contain the detail provided otherwise.

Rationale: Many installations are located in small rural communities that happen to be located on the fringes of an MSA area. Therefore, the present definition of rural area must be modified to be of any use or significance. Second, the installation which are the subject of the newly defined rural area need to be identified. Those LRAs should then be directed, by a revision of this Sub-Section to submit a simpler, shorter business plan in light of the 100% discount available for property located in such rural areas.

Name: Jeffrey G. Price, Attorney for Grissom Redevelopment Authority
Address: 15 S. Wabash St.
Peru, IN 46970
Phone: #317/472-3339
Date: 12/22/94



MAYOR'S BASE CONVERSION AND REDEVELOPMENT COMMISSION

December 21, 1994

The Honorable Joshua Gotbaum
Assistant Secretary of Defense
Office of Economic Security
3E808, The Pentagon
Washington, D.C. 20301-3300

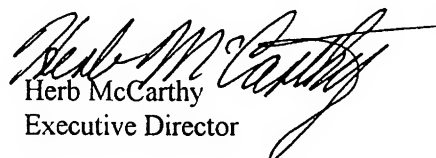
Dear Secretary Gotbaum,

Thank you for your recent letter to our Base Reuse Commission regarding the new Economic Development Conveyance procedures and for the opportunity to comment on the new rule. We, the "Local Redevelopment Authority" for Naval Air Station Cecil Field, are encouraged by the new procedures and are especially heartened by the emphasis to be placed on the community based reuse plan.

As you are well aware, the economic impact on Jacksonville and Northeast Florida brought about by the closure of Cecil Field will be severe. Our goal in the months to come is to develop a comprehensive base reuse plan that will create jobs and put the people of Jacksonville and the surrounding communities that will become unemployed as a result of the base closure back to work.

As we review the laws and policies that relate to the implementation of the reuse plan, we have concluded that it is the interest of all parties to base closure that the community reuse plan be the focal point of reuse planning and become central in determining best use of the closing base. Our concern is that some claims to the base under current surplus property screening regulations will not be compatible with our plans for overall redevelopment and job creation. Further, we believe that while the community must give due consideration to federal, state and other applications for portions of the base, the approved final reuse plan must reflect the community's desires for the purpose of replacing as rapidly possible those jobs lost as a result of the closure.

We sincerely appreciate the excellent cooperation we have received from the Department of Defense and thank you for the opportunity to comment on the new Economic Development Conveyance rule. We now need your assurance that our community developed reuse plan shall be the driving and determining factor in the final land use planning process.


Herb McCarthy
Executive Director

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Attachments

DEC 28 1994

OASD(ES)

Comments On The Amendment to the Interim Final Rule

Amending Sections 91.7(d)(e)&(f)
of the Interim Final Rule Published April 6, 1994

To: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: City of Jacksonville, Florida

Page
Column
Paragraph 91.7 (e)

Comment:

Request all references to "fair market value" be changed to "present fair market value" to ensure that all valuation of properties uses the "as is" condition.

Rationale:

Communities faced with base closure will be required to spend significant resources to bring facilities up to market standards in order to attract business and spawn economic development. Therefore, it is important that present fair market value at the time of transfer be used.

Name: Herb McCarthy, Executive Director
Address: Cecil Field Development Commission
128 E. Forsyth St.- Suite 405
Jacksonville, FL 32212
Phone: (904) 630-4787
Date: December 15, 1994

**Comments On The Amendment to the Interim
Final Rule**

Amending Sections 91.7(d)(e)&(f)
of the Interim Final Rule Published April 6, 1994

To: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: City of Jacksonville, Florida

Page 53740
Column 1
Paragraph 91.7 (e)(3)

Recommended Change or Comment:

Add to end of paragraph: "Once the valuation is complete a copy shall be provided to the Local Redevelopment Authority."

Rationale:

It is important for the LRA to know the result of the valuation of the property in order to properly plan.

Name: Herb McCarthy, Executive Director
Address: Cecil Field Development Commission
128 E. Forsyth St.- Suite 405
Jacksonville, FL 32212
Phone: (904) 630-4787
Date: December 15, 1994

Comments On The Amendment to the Interim Final Rule

Amending Sections 91.7(d)(e)&(f)
of the Interim Final Rule Published April 6, 1994

To: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: City of Jacksonville, Florida

Page 53740
Column 2
Paragraph 91.7 (e)(6)(iv)(C)

Recommended Change:

Add at end of paragraph: "on or off the site"

Rationale: It may be necessary to improve infrastructure directly related to the reuse of the base "outside the fence" in order to enhance the economic development potential of the installation and create jobs.

Name: Herb McCarthy, Executive Director
Address: Cecil Field Development Commission
128 E. Forsyth St.- Suite 405
Jacksonville, FL 32212
Phone: (904) 630-4787
Date: December 15, 1994

Comments On The Amendment to the Interim Final Rule

Amending Sections 91.7(d)(e)&(f)
of the Interim Final Rule Published April 6, 1994

To: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: City of Jacksonville, Florida

Page 53740
Column 3
Paragraph 91.7 (e)(7)

Recommended Change:

Add in the first sentence after " . . . Secretary of the Military Department": "in consultation with the Director of the DoD Base Transition Office and the Director of the Office of Economic Adjustment"

Add to the last sentence after " . . . Military Department": "upon obtaining the concurrence of the Director of the DoD Base Transition Office and the Director of the Office of Economic Adjustment"

Rationale: These offices work closely with communities in development of their reuse plans and military departments should consult with them concerning the communities application for EDC.

Name: Herb McCarthy, Executive Director
Address: Cecil Field Development Commission
128 E. Forsyth St.- Suite 405
Jacksonville, FL 32212
Phone: (904) 630-4787
Date: December 15, 1994

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To: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: City of Jacksonville, Florida

Page 53740
Column 3
Paragraph 91.7 (e)(8)(viii)

Recommended Change: Delete this paragraph.

Rationale: The community based reuse plan, incorporating the Military Departments plans for the installation, should be the one source document covering the overall disposal plan for the installation.

Name: Herb McCarthy, Executive Director
Address: Cecil Field Development Commission
128 E. Forsyth St.- Suite 405
Jacksonville, FL 32212
Phone: (904) 630-4787
Date: December 15, 1994

CITY OF
VICTORVILLE#22 UCT
619-955-5000
FAX 619-245-724314343 Civic Drive
Victorville, California 92392-2399

December 15, 1994

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DEC 21 1994

OASD(ES)

Mr. Joshua Gotbaum
Assistant Secretary of Defense
3D814, The Pentagon
Washington, DC 20301-3300

Dear Mr. Gotbaum:

We have recieved a copy of the Economic Development Conveyance Interim Final Rule. Specific comments are attached in the requested format. Generally, the Victor Valley Economic Development Authority (VVEDA) is strongly supportive of the proposed rule and the increased flexibility it grants for property disposal at closing military facilities.

We believe that the income sharing approach as proposed will be best able to produce new jobs and accommodate growth. There are still outstanding issues however, including:

- * Lack of coordination between EDC and Record of Decisions,
- * EDC should include all assets, but is silent on utilities,
- * Existing reuse plans may need revision to meet EDC regulation, additional dollars may be needed to facilitate this process,
- * California law prohibits risk by a Redevelopment Agency, another mechanism may be needed to adhere to risk share position,
- * A job generating EDC should not be secondary to the screening time and priority list of other public benefit transfers.

Please see our detailed comments on the attached pages.

The Victor Valley Economic Development Authority has submitted an initial EDC application. We request formal negotiation, pursuant to 91.7 (e) (7), as soon as possible for the purpose of developing agreement on price, terms, and conditions for the George AFB Economic Development Conveyance.

Mr. Josh Gotbaum
Interim Final Rule Comments
December 12, 1994
Page 2

Should you have any questions, please do not hesitate to contact me at (619) 955-5032.

Sincerely,

A handwritten signature, likely of Ken Hobbs, enclosed in a hand-drawn oval. The signature is stylized and appears to be a combination of initials and a surname.

Ken Hobbs, Co-Chair
VVEDA Finance and Development Committee

KSH:JH

JH:\...corres\edcommun..fr

attachments

cc: VVEDA Technical Advisory Committee

Mr. Josh Goubaum
Interim Final Rule Comments
December 12, 1994
Page 3

COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE
Amending Sections 91.7 (d)(e) & (f)

From: Victor Valley Economic Development Authority
George AFB

Page #: 53739
Paragraph #: 91.4 Policy
Subject: incorrectly used word, "property"

Recommended Change or Comment:

Conveyances to the LRA ... may be made at less than fair market value, with "proper" justification (not property)

Rationale:

There is no logical application to apply "property justification" to an Economic Development Conveyance Request.

Name: Ken S. Hobbs, Finance and Development Committee
Date: December 12, 1994
Address: 14343 Civic Dr, Victorville, CA 92392
Phone: (619) 955-5032, (619) 245-7243 FAX

Mr. Josh Gotbaum
Interim Final Rule Comments
December 12, 1994
Page 4

COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE
Amending Sections 91.7 and(d)(e) & (f)

From: Victor Valley Economic Development Authority
George Air Force Base

Page #: 53740
Paragraph # 91.7 (e) (1)
Subject: assets included for EDC consideration

Recommended Change or Comment:

The regulations are silent on the subject of utility and roadway infrastructure.

"Utility distribution systems and transportation networks form an integral part of infrastructure which will serve new development in the creation of new jobs, therefore these systems may be included in a LRA's request for EDC."

Rationale:

A LRA must have control of all development aspects in order to serve prospective tenants. Utilities are a major component of infrastructure and should be included along with roads for transfer to local control. Additionally, the LRA is in the best position to negotiate service with potential providers since compliance with local law may be overwhelmingly confusing for Federal decision makers.

Name: Ken S. Hobbs, Finance and Development Committee
Date: December 12, 1994
Address: 14343 Civic Dr. Victorville, CA 92392
Phone: (619) 955-5032, (619) 245-7243 FAX

Mr. Josh Gotbaum
Interim Final Rule Comments
December 12, 1994
Page 5

COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE
Amending Sections 91.7 and(d)(e) & (f)

From: Victor Valley Economic Development Authority
George Air Force Base

Page #: n/a
Paragraph #: n/a
Subject: Coordination with Record of Decision

Recommended Change or Comment:

Add clarification on the priorities which would be applicable should the EDC and existing Record of Decision (ROD) be in conflict. The EDC should take precedence and the ROD should be amended.

Rationale:

For 1988 and 1990 military facilities, a ROD may already exist to determine property disposal mechanisms. It is important that local reuse plans do not get sidetracked by different federal agencies which control different portions of the disposal process.

Name: Ken S. Hobbs, Finance and Development Committee
Date: December 12, 1994
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Phone: (619) 955-5032, (619) 245-7243 FAX

Mr. Josh Gotbaum
Interim Final Rule Comments
December 12, 1994
Page 6

COMMENTS ON THE AMENDMENT TO THE INTERIM FINAL RULE
Amending Sections 91.7 and(d)(e) & (f)

From: Victor Valley Economic Development Authority
George Air Force Base

Page #: 53740
Paragraph #: 91.7 (e) (1)
Subject: Redevelopment Authorities

Recommended Change or Comment:

Redevelopment has specific legal meaning in California law, suggestion is to use a more generic term, i.e. Reuse, in referring to the local agency.

Additionally, California law prohibits a Redevelopment Agency to assume risk. A different agency or mechanism may be required in order to satisfy the risk sharing provisions of the interim rule.

Rationale:

Use of a more generic term means that specific legal interpretations are avoided and confusion with local or state law is minimized.

Name: Ken S. Hobbs, Finance and Development Committee
Date: December 12, 1994
Address: 14343 Civic Dr. Victorville, CA 92392
Phone: (619) 955-5032, (619) 245-7243 FAX



23

National Association of Installation Developers

December 20, 1994

Honorable Joshua Gotbaum
Assistant Secretary of Defense
(Economic Security)
Office of the Secretary of Defense
Washington, D.C. 20301

Attn. Mr. Rob Hertzfeld

Dear Secretary Gotbaum:

Attached are the comments by the National Association of Installation Developers to the revised DoD Rules on "Revitalizing Base Closure Communities and Community Assistance" as they appeared in the October 26, 1994 edition of the Federal Register.

The new DoD Economic Development Conveyance provisions appear to represent a good faith and conscientious effort to address the many public comments directed toward Section 91.7(e) in the April 6, 1994 Interim Final Rules. Subject to several major reservations and several other recommended improvements, these revised Economic Development Conveyance rules do represent a reasonable and productive basis for improving DoD-community cooperation in new job creation and early civilian reuse at the closing military bases, as called for in Section 2903 of the 1994 Defense Authorization Act.

There are two important policy elements in the introductory DoD narrative that provide an excellent explanation for the Economic Development Conveyance process and encourage DoD-community cooperation in the reuse of the property. Unfortunately, these two helpful DoD policy statements are not included consistently in the actual DoD revised rules themselves. In turn, these two key policy statements will be lost in time during the actual implementation of the DoD rules. These two policy elements will be critical for most communities in making the EDC transfers work effectively:

- **Financing the Overall Redevelopment of the Property:**
The narrative contains the following useful page 6 guidance that is central to the community's role in maintaining and redeveloping a total property conveyance area. This policy should also be included in the actual rules: "The EDC should be used by LRAs to obtain large parcels of the base rather than merely individual buildings. The income received from some of the higher value property should be used to offset the maintenance and marketing costs of less desirable parcels. In order for this conveyance to spur redevelopment, large parcels must be used to provide an income stream to assist the long-term development of the property."
- **Range of Present Fair Market Value:** The narrative on page 9 indicates that DoD is obligated properly under Title XXIX "to obtain consideration within the estimated range of present fair market value, or to justify why such consideration was not realized." Yet, the actual DoD rules often speak of transfer at "estimated fair market value" without the word "present" being included consistently in those cases involving the valuation of the property at time of transfer. Moreover, the DoD definition of "fair market value" from the April 6th rules still includes values at "planned reuse" rather than the current condition of the property.

NAID believes that the term "present fair market value" must be used consistently in the rules themselves in paragraphs 90.4(b), 91.4 and 91.7(e)(6)(vi) and (f)(1) as it is already used in 91.7(e)(3). It is important also to emphasize the DoD will share or participate in the future increases in fair market value achieved by the LRA redevelopment program.

There are still several major problems with the revised Economic Development Conveyance rules:

- **Local Recovery & Job Creation Versus DoD Sales Returns:**
The DoD policy emphasis on "fostering economic recovery and job creation" is well stated. It will likely take several local EDC applications to be processed before the communities are confident that the detailed Business Plan elements are not being used as another means of exacting early, premature cash payments at the expense of local job creation. Aside from the Navy experience at the San Diego Broadway complex and the Army's Engineer Proving Ground project as well as Section 801/802 housing and long-term energy contracts, extensive experience does not exist within the Military Departments on joint public-private sector or commercial real estate development. Any real estate

business plan is at best speculative, based on the best possible information available at the time. It would be unfortunate if the process were to break down over payments that might be due in the seventh year rather than the ninth year. The objective should be to move the property and create jobs -- with balanced long-term returns to DoD.

- **Definitions:** New definitions for redevelopment authority (to recognize a variety of community economic development structures) and rural areas (to identify outlying regions in "over-bounded metro regions) are still needed.


While the draft DoD Economic Development Conveyance rules represent a significant and workable approach, there are a number of additional improvements needed to the rules, as shown in the Attachment.

The revised draft DoD Economic Development Conveyance rules, in our judgement, represent a good-faith and responsive effort by DoD to incorporate the many public comments in its final rules. NAID believes that the new revisions go a long way toward creating a workable Economic Development Conveyance approach and toward creating a cooperative DoD-community process for new jobs and economic recovery.

More work still needs to be done. But, the new proposed rules do represent a constructive DoD approach for implementing the central Pryor amendment for Economic Development Conveyances.

Thank you for this opportunity to comment on the revised Interim Final Rules.

Sincerely,



Ann Summers
President

Attachment

SPECIFIC NAID COMMENTS ON INTERIM FINAL RULES

While the draft DoD Economic Development Conveyance rules represent a significant and workable approach, there are a number of additional improvements needed to the rules, listed below by paragraph:

90.4: Include the word "present" before "fair market value," in keeping with the DoD narrative discussion.

91.4: Include the word "present" before "fair market value," in keeping with the DoD narrative discussion.

91.7(e)(1): Include the word "present" before "fair market value," in keeping with the DoD narrative discussion.

91.7(e)(3): Add: "The Military Department will share the property appraisal with the Local Redevelopment Authority." [Note: This open information exchange is needed to encourage DoD-community cooperation and to avoid the adversarial climate that often exists in Negotiated Public Agency Sales under the 1949 Federal Property Act procedures.]

91.7(e)(4): Language should be added to reflect some few economic development conveyances to educational institutions for job-producing purposes (such as the only two nationwide Section 2903 conveyances to date at Fort Ord to California State University at Monterey Bay and the University of California at Santa Cruz).

91.7(e)(6)(iv)(B): In the future market and financial feasibility analysis, the word "future" should be inserted so that the plan indicates "the estimated future fair market value of the property."

91.7(e)(6)(iv)(C): The element should be revised to read: "A cost estimate and justification for infrastructure and other on-site and off-site improvements directly related to enhancing job creation and value on the property as well as the community planning, marketing and net local property carrying costs needed for the development of the EDC parcel." [Note: There must be an explicit recognition that the communities and their LRAs will likely be the risk-takers in the redevelopment process. Moreover, the GSA Federal Property Management Regulations do not presently recognize off-site infrastructure improvements which will be necessary to provide adequate new public access to the former bases -- thereby creating value].

91.7(e)(6)(vi): Include the word "present" before "fair market value," in keeping with the DoD narrative discussion.

91.7(e)(7): Add in the second sentence: "the Director of the DoD Base Transition Office and the Director of Economic Adjustment as well as" just before the words: "... other Federal agencies, appraisals, caretaker costs and other relevant materials."

91.7(e)(9): Add the following new subsection: "The Military Department should advise the Assistant Secretary of the Defense (Economic Security) of any final decision on a community application that differs with regard to terms or conditions from those recommended by the Director of the Base Transition Office or the Director of Economic Adjustment."

91.7(e)(7)(viii): Delete entirely. [Note: Given that the Military Department has followed the April 6th guidance (Para. 91.7(c)) requiring that the community base reuse plan be the "preferred alternative" in the disposal Environmental Impact Statement, there should not be any "overall Military Department disposal plan for the installation" other than the community's consensus base reuse plan].

91.7(f)(1): Include the word "present" before "fair market value," in keeping with the DoD narrative discussion.

91.7(f)(1)(ii): Include the word "present" before "fair market value," in keeping with the DoD narrative discussion.

91.7(f)(1)(iii): Include the word "present" before "fair market value," in keeping with the DoD narrative discussion.

91.7(f)(3): Once again, the current April 6th definition of "rural" fails to take into account small rural communities that just happen to be located in "over-bound" metro (MSA) areas. More importantly, 91.7(f)(3) would require a full detailed EDC application before a determination is made that the property can be discounted at 100 percent in rural areas. NAID believes Section 2903 should properly be interpreted to mean that property in rural areas normally conveys without cost and with a minimum of detail required in the community EDC application. NAID believes that a business plan is imperative in the community's own interest for any long-term military base reuse success, but that: (1) the EDC application process should be simpler in rural areas than that called for normally in 91.7(e)(6) and (2) the base closure property should normally convey without cost consideration in rural areas.

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Santiago, Chile



American Association of Port Authorities

mark
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Erik Stromberg
President

1010 Duke Street
Alexandria, VA 22314
Tel: 703-684-5700
Fax: 703-684-6321

December 23, 1994

The Honorable Joshua Gotbaum
Assistant Secretary of Defense
for Economic Security
3310 Defense Pentagon
Room 3E808
Washington, DC 20301-3310

Re: Revitalizing Base Closure Communities and Community Assistance,
(59 Fed. Reg. 53735)

Dear Mr. Gotbaum:

I write on behalf of the American Association of Port Authorities (AAPA) regarding the amendments in the October 26 Federal Register to an interim rule on Revitalizing Base Closure Communities and Community Assistance.

AAPA, founded in 1912, represents virtually all public port authorities and agencies in the United States, as well as port agencies in Canada, Latin America and the Caribbean. AAPA members are public entities and mandated by law to serve public purposes, primarily the facilitation of waterborne commerce and the consequent generation of local and regional economic growth.

The deep draft commercial ports of our country handle over 95 percent of the Nation's international trade -- nearly one billion tons of cargo a year worth almost 500 billion dollars. The importance of ports to local, state and regional economies cannot be overstated.

We look forward to reviewing the proposed regulations from the Department of Transportation with regard to the transfer of surplus military property to port authorities. I understand those regulations, pursuant to section 2927 of the National Defense Authorization Act of 1994, will be published early in 1995.

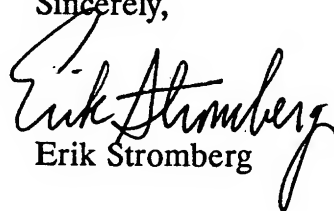
With regard to the Department of Defense proposed regulations, we respectfully recommend that the regulations be amended to add ports and port facilities to the list of potential uses for property conveyed under public benefit transfers. We request that the regulations reflect the intent of Congress to convey surplus property to public port agencies at no cost, with priority given to maritime uses. Specifically, we request that priority for ports and maritime uses be added to section 91.7 (e)(6)(v). I have enclosed a copy of our standing resolution, adopted unanimously by our membership, regarding surplus federal lands, military installations and property.

The Honorable Joshua Gotbaum
December 22, 1994
Page 2

Ports are, and will continue to be, important economic development entities. In addition to the direct value of trade, port activities create direct and indirect economic benefits for the Nation, as well as the local port community. Port operations benefit the public by creating jobs not only at the pier but throughout the transportation distribution chain. According to recent figures from the Maritime Administration (MarAd), in 1992, cargo activities at U.S. ports created 15 million jobs, contributed \$780 billion to the gross national product, provided personal income of \$532 billion, and generated federal taxes of \$154 billion, state and local taxes of \$56.5 billion.

Thank you for the opportunity to comment on the amendments to the interim final rule.

Sincerely,



Erik Stromberg

RES/fal
Enclosure

SURPLUS FEDERAL LANDS, MILITARY INSTALLATIONS AND PROPERTY

WHEREAS, the National Defense Authorization Act of 1993 grants authority to the U.S. Secretary of Transportation to convey real property available through military base closures for the purpose of port development and operation at no cost and with priority over most non-maritime considerations:

WHEREAS, the Secretary of Transportation has delegated that authority to the Maritime Administration;

WHEREAS, the Maritime Administration must prepare regulations to govern the procedures for conveying surplus military property for the purpose of port development and operations in conformity with authorizing regulations promulgated by the Department of Defense;

WHEREAS, the Department of Defense interim regulations do not reflect the intent of Congress to convey such property to public port agencies at no cost and prior to consideration of non-maritime uses;

NOW, THEREFORE, BE IT RESOLVED that this Association supports the rapid implementation of rules and regulations by the Department of Defense, Department of Transportation, and any other involved agencies so that property available from base closures is available as soon as possible and at no cost for port development and port operations to support maritime trade and national interests into the foreseeable future.

Resolution E-16 of 1993 (Halifax)

Recommended for readoption as amended by the National Defense Committee

Approved 10/94

25

**FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
FINAL RULE**

Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994

Send comments to: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: City of Philadelphia, Office of Defense Conversion

Page #: 53739

Section: 90.4 *et seq.*

Paragraph: (b)

Subject: *Current* Fair Market Value

Recommended Change or Comment:

Beginning with Section 90.4 and following in all sections thereafter, the words "current fair market value" shall replace "fair market value."

Rationale:

If any figure other than the current fair market value is utilized for assessment purposes, the analysis may include an incorrect estimated range. The factors which determine the fair market value of a conveyance are subject to frequent and rapid changes. Current fair market value, not the reuse potential for the site must be the basis for assessment. If this approach is not utilized, assessing the fair market value would be highly speculative and the valuation unreliable. Any future increases in fair market value estimations under the LRA redevelopment program will benefit both communities and the DoD through the profit-sharing mechanism.

Name: Terry Gillen
Address: 1600 Arch Street, 13th Floor
Philadelphia, PA 19102
Phone: 215-686-3643
Date: December 21, 1994

**FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
FINAL RULE**

**Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994**

Send comments to: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: City of Philadelphia, Office of Defense Conversion

Page #: 53740

Section: 91.7

Paragraph: (e) (6) (iv) (B)

Subject: Estimated Net Proceeds

Recommended Change or Comment:

From:

"A market and financial feasibility analysis describing the economic viability of the project, including an estimate of net proceeds over a fifteen-year period, the proposed consideration or payment to the Department of Defense, and the estimated fair market value of the property."

To:

"A market and financial feasibility analysis describing the economic viability of the project, including an estimate of the total net proceeds over a fifteen-year period, the proposed consideration or payment to the Department of Defense, and the estimated fair market value of the property. No payment shall be made to the Federal Government until net profits for the entire conveyed parcel are calculated. Such an estimate must consider the property and its infrastructure as a whole and must include all costs associated with the development thereof."

Rationale:

While one building or facility on a property may appear, on its face, to be a profit-making entity, when utility upgrades and other essential infrastructure improvements are considered, overall profits are diminished. As stated in the Discussion section of the Summary, (p. 53738) "income received from some of the higher value property should be used to offset the...costs of the less desirable parcels." It is important that this idea be incorporated into the legally binding regulations rather than simply the summary section.

Name: Terry Gillen
Address: 1600 Arch Street, 13th Floor
Philadelphia, PA 19102
Phone: 215-686-3643
Date: December 21, 1994

**FORMAT FOR COMMENTS ON THE AMENDMENT TO THE INTERIM
FINAL RULE**

Amending Sections 91.7(d) (e) & (f)
of the Interim Final Rule Published April 6, 1994

Send comments to: Office of the Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: City of Philadelphia, Office of Defense Conversion

Page #: 53741

Section: 91.7

Paragraph: (f) (3)

Subject: Inclusion of Urban Areas

Recommended Change of Comment:

From: "In a rural area, as defined by this rule, any EDC approved by the Secretary of the Military Department shall be made without consideration when the base closure will have a substantial adverse impact on the economy of the communities in the vicinity..."

To: "In a rural or urban area..."

Rationale:

The interim final rule states that rural areas will receive conveyance without consideration when the closure will "have a substantial adverse impact on the economy of the communities in the vicinity of the installation and on the prospect for their economic recovery." Due to changes in the economy such as tax rates, outward migration of businesses, and the resulting high unemployment rates, many urban areas are facing significant economic problems. In 1978, President Jimmy Carter issued an Executive Order guaranteeing preferential treatment of urban areas in the closure or relocation of federal facilities. President Clinton has issued similar statements. Given the Administration's concern for the continued stability of America's cities, the regulations should allow urban areas which meet the "adverse economic impact" criteria to qualify for conveyance without consideration.

Name: Terry Gillen
Address: 1600 Arch Street, 13th Floor
Philadelphia, PA 19102
Phone: 215-686-3643
Date: December 21, 1994

Name: Terry Gillen
Address: 1600 Arch Street, 13th Floor
Philadelphia, PA 19102
Phone: 215-686-3643
Date: December 21, 1994

**St. Regis Mohawk Tribe**

Community Building
Hogansburg, New York 13655
Tel 518-358-2272
Fax 518-358-3203

Tribal Chiefs
John S. Loran
Norman J. Tarbell
Philip H. Tarbell

Tribal Clerk
Carol Herne
Tribal Administrator
Angus N. McDonald

E-MAIL COVER SHEET

27

TO: Paul Dempsey,
Director,
Office of Economic Adjustment

LOCATION: Washington, D.C.

FAX NO: (703) 604-5843

FROM: Chief Norman J. Tarbell
Chief Philip H. Tarbell

MESSAGE: In accordance with our discussion with your staff, we are faxing our written comments to the Interim final rule on revitalising base closure communities published in the Federal Register of October 26, 1994. Concurrently with this fax, we are overnighting a duplicate original to replace a previous submission which might have went to a wrong address.

We would appreciate a brief acknowledgement that these comments were officially received by your agency.

PROGRAM: Adm

PROGRAM CODE:

DATE: Dec. 27, 1994

TIME: 9:50 a.m.

NOTE: IF YOU DO NOT RECEIVE 12 PAGES, INCLUDING COVER SHEET, OR IF YOU HAVE TRANSMISSION PROBLEMS, PLEASE CONTACT AGNES BOILEAU AT (518) 358-2272, EXT. 202.

EMAIL

12/23/1994 03:59

3058232588

HENRY FLOOD

PAGE 82

TO: Office of the Assistant Secretary of Defense
For Economic Security
Room 3-D814
The Pentagon
Washington, DC, 20301

FROM: The Saint Regis Mohawk Tribe
Tribal Administration Building
Hogansburg, NY 13655

RE: Revitalizing Base Closure Communities & Community
Assistance Interim Final Rule and Amendments
32 CFR Parts 90 and 91
59 FR 53735 (10/26/94)

DATE: December 23, 1994

I Introduction

This memorandum contains the comments of the Saint Regis Mohawk Tribe concerning the above-captioned interim final rule. Our comments are contained in sections II through V as noted below.

II Tribal Participation In The Base Closure Process

The Saint Regis Mohawk Tribe notes that the interim final rule with amendments does not address the role or scope of participation that DoD will permit for Federally recognized tribes in the closure process. The proposed interim final rules with amendments contain many provisions that are adverse to the sovereign status of Indian tribes and their legal rights to be treated the same as other Federal agencies when it comes to disposal of Federal property.

In the FY 1992 and 1993 DoD appropriations acts, Congress drafted legislative language that treats tribes as if they were state and local governments. This language provides:

[n]otwithstanding any other provision of law, governments of Indian tribes shall be treated as State and local governments for the purposes of disposition of real property recommended for closure in the report of the Defense Secretary's Commission on Base Realignment and Closures, December 1988, the report to the President from the Defense Base Closure and Realignment Commission, July 1991, and Public Law 100-526.

We wish to note that this language is inconsistent with the organic political status of Federally recognized Indian tribes and their relationship of trust with the United States. Congressional policy towards Indians in the Indian Self Determination Act and virtually every other act relating to Indians affirms the Federal sovereign status of Indians.

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HENRY FLOOD

PAGE 03

Notwithstanding this particular appropriations language, the Bureau of Indian Affairs (BIA) clearly has specific legal authority to acquire Federal excess or surplus property on behalf of Indian tribes and donate that property to Federally recognized tribes.

Regardless of the wording contained in the appropriations language, this language conflicts with both the Self Determination Act (see 25 U.S.C. 450j (f) (1-3) as amended) and the Presidential Executive Memorandum on Government to Government Relations With Federally Recognized Tribes (see 59 FR 22951, May 4, 1994).

A more reasonable interpretation of tribal rights with respect to acquisition of base closure property is to examine the various laws and regulations relative to the organic political status of Indians and their long-standing political relationship with the United States. We doubt that a blended reading of the relevant laws and regulations would support the proposition that Federally recognized tribes are "state and local governments"

Regardless of the legal construction that may ultimately be applied to the right of Indian tribes to receive base closure property, tribes have at least the same rights to receive DoD base closure property as that now accorded to State and local governments (i.e. as surplus). However, it is further asserted that Federally recognized tribes have the same sovereign status as Federal agencies for the purposes of acquiring Federal property (i.e. Excess).

III Tribal Position On 90.4 and 91.4 of Interim Rule

Given this background discussion regarding how the Saint Regis Mohawk Tribe views the rights of Federally recognized tribes to acquire DoD base closure property, we now turn to the DoD policy pronouncements contained in sections 90.4 and 91.4 of the October 26, 1994 Interim Final Rule on Base Closures. The policy language of these two sections is set out below.

Part 90--Revitalizing Base Closure Communities

* * * * *

90.4 Policy

* * *

(b) In implementing Title XXIX of Public Law 103-160, it is DoD policy to convey property to a Local Redevelopment Authority (LRA) to help foster economic development and job creation when other federal property disposal options cannot achieve such objectives. [Remainder of paragraph omitted.]

* * * * *

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HENRY FLOOD

PAGE 04

Part 91--Revitalizing Base Closure Communities--Base Closure
Community Assistance

* * * * *

91.4 Policy

It is DoD policy to convey property to a Local Redevelopment Authority (LRA) to help foster economic development and job creation when other federal property disposal options cannot achieve such objectives. [Remainder of paragraph omitted.]

The operative words in the interim DoD policy contained in these two sections are "when other federal property disposal options cannot achieve such objectives." (emphasis added). Clearly, there are other options available to DoD with respect to how Federally recognized Indian tribes are treated for the purposes of conveying base closure property. Conveying property as "Excess" through another Federal agency such as Interior or the Indian Health Service pursuant to the Self Determination Act is an alternative legal option. More importantly, the Saint Regis Mohawk tribe interprets this language in context to mean that surplus conveyances to LRAs are appropriate only when other available property disposal options cannot meet DoD economic development and job creation objectives articulated in DoD's base closure policies.

Indeed, this interpretation generally comports with the language contained in section 91.7(e) (2) of the interim final rule regarding Economic Development Conveyances (EDCs) which provides that "The EDC should only be used when other Federal property disposal authorities for the intended land use cannot be used to accomplish the necessary economic redevelopment." Our point is that EDC conveyances are not the exclusive route for achieving economic development and job generation in communities facing a base closure. Alternatives other than EDC must first be fully explored by DoD. In the case of Plattsburgh Air Force Base, for example, the Saint Regis Mohawk Tribe is that clear alternative.

The Saint Regis Mohawk Tribe views the policy language of sections 90.4 and 91.4 in context to mean that DoD must first show clearly and convincingly that other property disposal options were not only considered, but in fact cannot meet DoD economic development and job creation objectives. This means that DoD examine the true merit of Indian base closure acquisition proposals and examine the merits contained therein relative to the highest and best use of the requested property.

Although the merits of particular proposals are not directly the focus of this rulemaking, the Saint Regis Mohawk Tribe contends that its base re-use plan for Plattsburgh Air Force Base in Northern New York is very likely to offer a superior alternative to any proposal contemplated for submission by the designated LRA

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HENRY FLOOD

PAGE 05

otherwise known as the Plattsburgh Inter-Municipal Development Council (PIDC).

Our claim respecting the DoD interim final rule is that there will be circumstances when a tribe (in this case the Saint Regis Mohawk Tribe), can present superior alternatives to the option of using the LRA conveyance approach. Absent compelling evidence to the contrary, we believe that a tribally developed plan with more than one billion dollars in long-term financing and job creation potential of between 5,000 and 9,000 jobs over a 20 year period is very likely to be a superior alternative.

IV Comments on Supplementary Information and Other Portions of the Interim Final Rule

A Supplementary Information- C Discussion

When should an EDC be used? Transfers to Indian tribes directly or to Interior or the Indian Health Service for the benefit of tribes should clearly be permitted as an option.

Who can receive an EDC? The tribe objects to the language stating that "An LRA is the only entity eligible to receive property under an Economic Development Conveyance." Federally recognized tribes should also be permitted this option because of their (1) Federal sovereign status, and (2) tribes are entitled to receive property as "EXCESS" under the Indian Self Determination as amended (see attached property provisions of act).

DoD should take in to account that some Indian tribes are capable of carrying out large scale re-use or re-development plans at closed military bases and when that capacity is clearly and realistically demonstrated, a tribe should be permitted to proceed with its plan the same as would be permitted for any other Federal agency. Again, Federally recognized tribes can, in some instances be a better alternative than LRAs or even the EDC approach.

B Transfer Methods Table-LRAs Changes

The tribe suggests amending the table on page 53737 to read as follows:

1. Change table title to read Excess and Surplus Federal Property Conveyance Methods To LRAs and Other Entities
2. Insert Excess Conveyances as a class of choices containing other Federal agencies and Federally Recognized Tribes. These conveyances would be approved by a Military Department. Transfers to Indian Tribes could be either direct or to the Department of Interior for the benefit of Indian Tribes. FMV 100%. The authorities would be the Excess Property statutory and regulatory

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HENRY FLOOD

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provisions plus the property provisions of the Indian Self Determination Act (Section 105 (f) (1-3); 25 U.S.C. 450j (f) (1-3) provisions attached)

3. Amend "Public Airport Conveyance category" to include transfers to Federally recognized tribes and add Self Determination Act authorities.

4. Amend "Public Benefit Conveyance Categories" to include Federally recognized Tribes as a sub-category and add Self Determination Act authorities, or alternatively add Federally recognized tribes to "Other Specific Conveyance Categories" as a sub-category.

C EDC Conveyances To LRAs

Again, the Saint Regis Mohawk Tribe objects to the DoD position that only LRAs may receive an EDC conveyance (see Section 91.7 (e) (4)) since this is an arbitrary exclusion and even more so if tribes are ultimately to be treated as if they were "State and local governments" In this instance, tribes would be excluded from participation in a manner that clearly violates the DoD appropriations language. It is a well settled principle of law that regulations may not take away what statutes clearly give. Therefore, if tribes are ultimately forced to live with EDC conveyances as "state and local governments" then we must be permitted equal footing to LRAs.

D Application Guidance And Suggestions

In general, the Saint Regis Mohawk Tribes does not object to the application guidance language contained in the supplementary section and in sections 91.7 (e) (5) and (6). However, DoD should know that there are some differences in the way tribal governments govern and what one might typically find in State or local governments. Therefore, DoD should be ready to work with Federally recognized tribal applicants who might seek accommodations on particular submission requirements that conflict with tribal sovereign status or other factors unique to tribes. This is exactly what is addressed by the Presidential Executive Memorandum on Government-to-Government Relations With Federally Recognized Tribes.

E Application Review

In general, the Saint Regis Mohawk Tribes does not object to the application review criteria contained in sections 91.7 (e) (7) and (8).

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HENRY FLOOD

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V Further Information and Discussion

The comments contained in this memorandum were prepared at the direction of the Chiefs of The Saint Regis Mohawk Tribe. The principal author of the comments is Mr. Henry Flood, Development Specialist for the tribe. For the purposes of further information and discussion DoD may wish to contact one or more of the following individuals:

1. Chief Phil Tarbel, Chief Norman Tarbel or Chief John Loran may be reached by calling 1-518-358-2272 or by fax at 1-518-358-4519.
2. David Sherwood, Director of Grants and Contracts is the tribe's Project Manager for Plattsburgh AFB matters and he may be reached by calling, 1-518-358-2272 or by fax at 1-518-358-3203.
3. Henry Flood is the Development Specialist for the tribe and handles development and regulatory matters for the tribe. He can be reached by calling 305-932-1878 or by fax at 1-305-935-9577 and his address is Mohawk Development Office, 2972-A Aventura Blvd. Aventura, FL 33180.
4. Joe Grey is Director of Public Affairs for the tribe and may be reached by calling, 1-518-358-2272 or by fax at 1-518-358-3203.

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HENRY FLOOD

PAGE 02

INDIAN SELF-DETERMINATION

* * * * *

§ 450j. Contract or grant provisions and administration.
(a) Applicability of Federal contracting laws and regulations;
waiver of requirements.

* * * * *

(f) Utilization of existing school buildings, hospitals and other facilities and government-owned personal property. In connection with any self-determination contract or grant made pursuant to section 102 or 103 of this Act, the appropriate Secretary may--

(1) permit an Indian tribe or tribal organization in carrying out such contract or grant, to utilize existing school buildings, hospitals and other facilities and all equipment therein or appertaining thereto and other personal property owned by the Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance;

(2) donate to an Indian tribe or tribal organization title to any personal or real property found to be excess to the needs of the Bureau of Indian Affairs, the Indian Health Service, or the General Services Administration, except that--

(A) subject to the provisions of subparagraph (B), title to property and equipment furnished by the Federal Government for use in the performance of the contract or purchased with funds under any self-determination contract or grant agreement shall, unless otherwise requested by the tribe or tribal organization, vest in the appropriate tribe or tribal organization;

(B) if property described in subparagraph (A) has a value in excess of \$5,000 at the time of the retrocession, rescission, or termination of the self-determination contract or grant agreement, at the option of the Secretary, upon the retrocession, rescission, or termination, title to such property and equipment shall revert to the Department of the Interior or the Department of Health and Human Services, as appropriate; and

(C) all property referred to in subparagraph (A) shall remain eligible for replacement on the same basis as if title to such property were vested in the United States; and

[Amended by P.L. 103-413, 108 STAT. 4254, 55 (Replacing Paragraph 2 with new paragraph 2; 25 U.S.C. 450j (f) (1-3), 10/25/94]

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HENRY FLOOD

PAGE 03

(3) acquire excess or surplus Government personal or real property for donation to an Indian tribe or tribal organization if the Secretary determines the property is appropriate for use by the tribe or tribal organization for a purpose for which a self-determination contract or grant agreement is authorized under this Act";

* * * * *

(3) acquire excess or surplus Government personal or real property for donation to an Indian tribe or tribal organization if the Secretary determines the property is appropriate for use by the tribe or tribal organization for a purpose for which a self-determination contract or grant agreement is authorized under this Act";

* * * * *

1ST DOCUMENT of Level 1 printed in FULL format.

FEDERAL REGISTER
VOL. 59, No. 985

Presidential Documents

PRESIDENT OF THE UNITED STATES

Memorandum of April 28, 1994

Title 2-
The President
Government-to-Government Relations With Native American Tribal
Governments

59 FR 21981

DATE: Wednesday, May 04, 1994

ACTION: Memorandum for the Heads of Executive Departments and Agencies

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To view the next page, type .xp- TRANSMIT.

To view a specific page, transmit p+ and the page number, e.g. p+1
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The United States Government has a unique legal relationship with Native American tribal governments as set forth in the Constitution of the United States, treaties, statutes, and court decisions. As executive departments and agencies undertake activities affecting Native American tribal rights or trust resources, such activities should be implemented in a knowledgeable, sensitive manner respectful of tribal sovereignty. Today, as part of an historic meeting, I am outlining principles that executive departments and agencies, including every component bureau and office, are to follow in their interactions with Native American tribal governments. The purpose of these principles is to clarify our responsibility to ensure that the Federal Government operates within a government-to-government relationship with federally recognized Native American tribes. I am strongly committed to building a more effective day-to-day working relationship reflecting respect for the rights of self-government due the sovereign tribal governments.

In order to ensure that the rights of sovereign tribal governments are fully respected, executive branch activities shall be guided by the following:

(a) The head of each executive department and agency shall be responsible for ensuring that the department or agency operates within a government-to-government relationship with federally recognized tribal governments.

(b) Each executive department and agency shall consult, to the greatest extent practicable and to the extent permitted by law, with tribal governments prior to taking actions that affect federally recognized tribal governments. All

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Continued on Next Page, Control Line

99 FR 22511, *

such consultations are to be open and candid so that all interested parties may evaluate for themselves the potential impact of relevant proposals.

(c) Each executive department and agency shall assess the impact of Federal Government plans, projects, programs, and activities on tribal trust resources and assure that tribal government rights and concerns are considered during the development of such plans, projects, programs, and activities.

(d) Each executive department and agency shall take appropriate steps to remove any procedural impediments to working directly and effectively with tribal governments on activities that affect the trust property and/or governmental rights of the tribes.

(e) Each executive department and agency shall work cooperatively with other Federal departments and agencies to enlist their interest and support in cooperative efforts, where appropriate, to accomplish the goals of this memorandum.

(f) Each executive department and agency shall apply the requirements of Executive Orders Nos. 12875 ("Enhancing the Intergovernmental Partnership") and 12866 ("Regulatory Planning and Review") to design solutions and tailor Federal programs, in appropriate circumstances, to address specific or unique needs of tribal communities. [22552]

The head of each executive department and agency shall ensure that the department or agency's bureaus and components are fully aware of this memorandum, through publication or other means, and that they are in compliance with its requirements.

This memorandum is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON

THE WHITE HOUSE,

Washington, April 29, 1994.

Editorial note: For the President's remarks to American Indian and Native Alaska tribal leaders, see the Weekly Compilation of Presidential Documents (vol. 30, issue 18)

(FR Doc. 94-00877 Filed 5-2-94; 3:49 pm)

Billing code 3110-01-M

BUSINESS EXECUTIVES FOR NATIONAL SECURITY

Comments on Department of Defense Interim Rule Amendments --

Revitalizing Base Closure Communities and Community Assistance

December 20, 1994

Submitted By:
Business Executives For National Security
Attn: Todd Hoffman
1615 L Street N.W., Suite 330
Washington, D.C. 20036
(202) 296-2125

Counsel:
Shaw, Pittman, Potts & Trowbridge
Attn: Alexander W. Joel
2300 N Street N.W.
Washington, D.C. 20037
(202) 663-9420

BUSINESS EXECUTIVES FOR NATIONAL SECURITY

Comments on the Amendments to the Interim Final Rule¹ "Revitalizing Base Closure Communities and Community Assistance" December 20, 1994

INTRODUCTION

On July 5 of this year Business Executives for National Security ("BENS")² submitted comments to the Interim Rule. Those comments focused primarily on the Department of Defense's ("DoD") novel process for "Job Centered Property Disposal," and warned that such a process would: (1) take away from communities the very property that was most likely to assist them, (2) leave them saddled with unproductive property which they must develop and market at their own risk, (3) confuse the redevelopment process by creating competing plans and marketing efforts, and (4) result in uses of the property that the community could not control. In those comments, BENS expressed its concern that such an approach was inconsistent with the President's Five-Part Plan and federal law, and urged DoD to reconsider the merits of the Interim Rule in light of its likely impact on local communities.

BENS is pleased to note that the Interim Rule Amendments have addressed many of BENS' concerns in this area. By eliminating Section 91.7(d) (and therefore the Job Centered Property Disposal process), DoD has, as recommended by BENS, returned to the core principles of the President's Five-Part Plan, the National Defense Reauthorization Act of 1994, and the Base Realignment and Closure Acts of 1988 and 1990. The Interim Rule Amendments properly recognize the importance of "putting communities first" by eliminating some of the obstacles standing in the way of rapid base reuse by affected communities. Indeed, BENS believes that the Interim Rule Amendments represent real progress toward providing the kind of streamlined property disposal process that BENS has long advocated.

Nevertheless, some additional work remains to be done, both in terms of the Interim Rule Amendments and in areas not yet addressed by DoD. BENS is interested in working with DoD to improve other aspects of the base closure and redevelopment process, including streamlining procedures, empowering Base Transition Officers to take a more proactive role, involving communities in the Federal screening process, and commenting on the "guidebook" referenced at 59 Fed. Reg. 53,736.

The following comments specifically address the Interim Rule Amendments.

¹ 59 Fed. Reg. 53,735 (1994) ("the Interim Rule Amendments").

² BENS is a non-partisan, non-ideological and non-profit organization of top business leaders from around the country. BENS' primary purpose is to educate citizens and policy makers about how to achieve a more efficient national security structure by employing successful business planning and management techniques.

SPECIFIC COMMENTS

1. Other Federal Property Disposal Authorities.

Provisions. Section 91.7(e)(2) provides that the EDC should only be used when other Federal property disposal authorities cannot accomplish the necessary economic redevelopment. Section 91.7(e)(6)(v) carries forward this theme by requiring communities to describe why such other authorities cannot be used.

Issue. As the table set forth at 59 Fed. Reg. 53,737 demonstrates, there are a multitude of federal statutes and regulations that in some way touch on Federal property disposal. While BENS agrees that the EDC should not be used when some authority already exists for accomplishing the result sought, the burden should not be the LRA's alone to identify and describe how the sometimes overlapping, often changing, and always confusing web of Federal statutes and regulations might be used to accomplish the LRA's intended use.

Recommendation. Insert the following at the end of Section 91.7(e)(2): "The Base Transition Office shall work closely with the LRA to identify such other Federal property disposal authorities by, among other things: (i) providing the LRA with a current list of Federal statutes and regulations applicable to the LRA's intended use of the property; (ii) contacting the relevant Federal agencies to obtain information and forms for the LRA; and (iii) assisting the LRA in determining the viability of using such other Federal property disposal authorities to accomplish the LRA's intended use."

2. Determination of Fair Market Value.

Provision. Section 91.7(e)(3) provides that the Military Department must prepare an estimate of the present fair market value of the property, in consultation with the LRA.

Issue. The estimate of present fair market value is critical to an EDC conveyance. It serves as the benchmark for determining the consideration to be paid to the Military Department in exchange for the property, and will therefore impact almost every aspect of the community's business plan. An inappropriately determined "fair market value" can have severe consequences on the community's ability to productively reuse the base property. One example of the serious disruptions and delays that can arise is the situation at Mather Air Force Base in Sacramento, California. There, the military appraiser's estimate of fair market value was about \$20 million higher than that of the community's. This difference in estimates has delayed the conveyance and has disrupted the community's plans for using the residential property for low income housing. Not only has the property itself deteriorated badly in the interim, but also interest rates and other conditions have changed, further altering the value of the property to private parties. Without early agreement on fair market value, the community is effectively unable to execute its reuse plan, since it cannot commit to a conveyance date or to a price. It is therefore critical for the rules to address in greater detail this fundamental component of successful reuse.

Recommendations. Section 91.7(e)(3) should contain more guidance to Military Departments on how to conduct such appraisals. The following should be added:

"Military Departments shall establish fair market value in close coordination with the LRA's, using assumptions and information that are consistent with the Redevelopment Plan. If the Redevelopment Plan has not been finalized, or if certain assumptions cannot yet be validated (such as the zoning for the property), then the Military Departments shall either refrain from making the appraisal or adjust any appraisals previously made, as requested by the LRA's. Among other things, the Military Department shall:

- ♦ Consider only the *present* fair market value of the property, not the value resulting from some anticipated future use, which may or may not materialize.
- ♦ Consider how present fair market value will be affected by the following:
 - the environmental risks and clean up costs involved to bring the property into compliance with Federal and state environmental standards
 - the other costs that any non-Federal user will incur to bring the property into compliance with Federal, state and local building codes, OSHA requirements, zoning requirements, and other applicable statutes and regulations
 - the time delays inherent in conveying the property to the end user
 - current and projected interest rate fluctuations
 - zoning
- ♦ To the extent practicable, follow appraisal standards and procedures used in industries comparable to the current or most obvious use of the property (i.e., residential housing standards for blocks of residential housing).
- ♦ Provide LRA's with advance notice of the process being considered to determine present fair market value, and incorporate any reasonable recommendations made by LRA's.
- ♦ Allow LRA's to participate in the appraisal process, including accompanying appraisers during inspections.
- ♦ Solicit and consider LRA comments during the appraisal process; provide LRA's with a draft of the appraisal, and consider and incorporate their reasonable comments and recommendations.
- ♦ Provide LRA's with the opportunity to perform an appraisal at their own cost and expense, and provide any LRA appraisers with reasonable cooperation and access to information and facilities.
- ♦ Provide LRA's with the final appraisal, including supporting documentation, analysis, and reasoning, and consider and incorporate their reasonable comments and recommendations.
- ♦ Begin the appraisal process early, but adjust the appraisal as conditions and assumptions change. For example, if the community rezones surrounding areas in a manner inconsistent with assumptions made in the appraisal, the appraisal should be adjusted

accordingly. Once the community determines what zoning will apply to the property, adjust any appraisals that have been made accordingly.

The Secretary of Defense, in conjunction with the Military Departments, shall establish a streamlined process for LRA's that are not satisfied with the appraisal to (i) obtain review of the appraisal by higher echelons and/or (ii) obtain a review of the appraisal by an independent appraiser. The burden to establish fair market value rests with the Military Department, and not with the LRA's. If the Military Department is not able to justify its appraisal based on the criteria set forth in this Section, that of the LRA's shall be used."

3. Composition of the LRA.

Provision. Section 91.7(e)(4) provides that an LRA is the only entity that can receive property under an EDC, and that it should have a broad-based membership, including representatives from jurisdictions with zoning authority over the property.

Issue. As BENS noted in its July 5 comments, Section 90.3(e) (not covered by the Interim Rule Amendments) should be amended to clarify the situations in which more than one entity is claiming to be the LRA for a given military installation. Section 91.7(e)(4) of the Interim Rule Amendments provides some additional guidance in this area; however, this guidance should appear in Section 90.3(e), and should be expanded.

Recommendations.

- ♦ Move Section 91.7(e)(4) to Section 90.3(e).
- ♦ Add the following after the second sentence: "In addition, an LRA should include representatives from jurisdictions that can show that they are (i) substantially affected by the base closure, or (ii) will be substantially affected by the most likely intended reuse of the base property."
- ♦ Add the following after the third sentence: "In the event more than one entity applies for such recognition, the Secretary shall not recognize an LRA for a period of time, deemed reasonable by the Secretary in the Secretary's discretion, during which the competing entities will be afforded an opportunity to work to resolve their differences and re-apply as a single entity. Failing such a resolution, the Secretary will recognize the entity which, in the Secretary's discretion, best complies with the guidelines of this Section 90.3(e)."

4. Assistance in Preparing the EDC Application.

Provision. Section 91.7(e)(5) provides that a properly completed application will be the basis for deciding whether the LRA is eligible for an EDC.

Issue. Given the importance of the application, the Military Departments should work closely with the LRA's during the preparation phase to make sure that the application is on track. Otherwise, LRA's might make substantial investments of time, energy and money in preparing and

completing an application that is later rejected by the Military Department; better to uncover points of disagreement or difficulty early in the process.

Recommendation. Add after the third sentence: "The Base Transition Office shall work closely with the LRA to assist the LRA in preparing the application. Such assistance shall include, without limitation, providing information and guidance regarding the format of the application, the specific expectations and concerns of the Military Department with respect to the LRA's application, and compliance with the requirements of this Section 91.7(e). The Base Transition Office shall appraise the LRA's of any likely objections, concerns, or issues that the Military Department may have with the LRA's application. At the LRA's request, the Military Department will consider and review an early draft of the application and provide the LRA with comments and suggestions for how to change the application as necessary to improve chances for approval."

5. Disapproval of the Application.

Provision. N/A.

Issue. The Interim Rule Amendments do not address the issues that arise in the event of a disapproved application. Presumably, the requested EDC will not occur, and the property will be put up for public sale in accordance with procedures under the Federal Property and Administrative Services Act of 1949. During that process, however, the LRA may well be able to amend the application to address the Military Department's concerns. In addition, the public sale should be conducted in a manner consistent with the Redevelopment Plan, to the extent possible under Federal law.

Recommendations.

- ♦ Add a new Section 91.7(e)(8): "In the event an application is disapproved, the Secretary of the Military Department will state the reasons for disapproval in writing, and will provide the LRA with an opportunity to comment and request reconsideration. If the Secretary continues to disapprove the application following such reconsideration, the Secretary shall provide the LRA with the opportunity to request an expedited review of the disapproval decision by the Secretary of Defense. The LRA may submit such additional materials as it deems relevant to such review, including amending the application to address the Military Department's objections."
- ♦ Add a new Section 91.7(e)(9): "In the event of a final disapproval under Section 91.7(e)(8), the property shall be disposed of in accordance with existing Federal law and regulation. The Base Transition Office shall promptly inform the LRA of the next steps in the disposal process, and shall provide the LRA with an opportunity to comment on the disposal plan to be pursued by the Military Department. The LRA shall have a reasonable opportunity to submit a new application for an EDC conveyance, which shall be given expedited consideration, to the extent consistent with the requirements of the disposal process under other Federal law and regulation. In any event, any subsequent disposal of the property under other Federal law and regulation shall, to the extent

permissible under such Federal law and regulation, be made in a manner consistent with the Redevelopment Plan. The Base Transition Office shall work with the LRA to obtain any required approvals, waivers, or other actions by other Federal agencies as necessary to give effect to the Redevelopment Plan under such circumstances."

6. Failure to Reach Agreement on Terms and Conditions.

Provision. Section 91.7(f) provides that the Military Department will negotiate the terms and conditions of each transaction with the LRA, with consideration at or below fair market value.

Issue. The Interim Rule Amendments provide the Military Departments and the LRA's with much-needed flexibility in structuring the transactions to suit local needs and conditions. This is a positive step. However, there is always the danger of an impasse legitimately reached by the parties, or of unreasonable positions taken by either side. Some thought should be given about how such a situation could be best resolved. The LRA's have a built-in incentive to be reasonable: the discipline of the marketplace and the need to obtain the property quickly. If they take unreasonable positions, the property may go to sale at public auction, and the LRA's may lose the opportunity to use the property as they intended. The Military Departments, on the other hand, do not necessarily have the same incentive -- they may not have a strong interest in reaching agreement with an LRA in situations where they hope to realize a direct gain through a public auction or other sale, rather than through an EDC. While BENS does not expect this will be the norm, the danger nevertheless exists.

Recommendation. Add a new Section 91.7(f)(5): "In the event the Military Department and the LRA are unable to reach agreement on the terms and conditions of an EDC after the passage of a reasonable period of time, either side may request that the Secretary of Defense appoint a neutral mediator to mediate the dispute and suggest appropriate resolutions. If such mediation effort is unable to produce agreement, the mediator shall present the positions of both sides and the mediator's recommended resolution to the Secretary of Defense for final decision. Such final decision shall be based on the resolution of the disagreement that best gives effect to the applicable statutory and regulatory principles, with particular emphasis on the need to provide local communities with rapid access to base property for the purpose of reuse. While the Military Department's interest in obtaining a return from the property shall be given due consideration, such interest shall be secondary to the objectives of base closure and realignment, as set forth in applicable law. The property will not be considered available for disposal by the Military Department until the conclusion of this process."

7. Post-Transfer Contingencies.

Provision. Section 91.7(f)(2) provides that provisions may be incorporated in the conveyance documents to protect the Department's interest in obtaining the agreed upon consideration, including the standard GSA excess profits clause.

Issue. This Section addresses protection of the Military Department's post-transfer interest through the excess profits clause. While the Military Department's desire for a return is understandable, it may be inconsistent with the purpose of many EDC's, which is for third parties to develop and resell the property (at a profit) as quickly as possible. Indeed, the excess profits clause will make it more difficult for communities to attract the type of investment capital and private sector interest needed to redevelop base property. The community and its private partners will be assuming a great deal of risk in investing time, effort, and resources in developing and marketing base property. Such risk will only be assumed where there is reward potential. The excess profits clause could, unfortunately, undermine that potential.

In addition, this Section does not address the issues that will arise if the anticipated income from the reuse does not materialize. While this presumably will be addressed and resolved during negotiations, some guidance to the Military Departments would be helpful to avoid future disputes.

Recommendations.

- ♦ Amend the last sentence of Section 91.7(f)(2) as follows: "Also, the standard GSA excess profits clause, appropriately tailored to the transaction, *will may* be used in the conveyance documents to the LRA."
- ♦ Add the following at the end of Section 91.7(f)(2): "Inclusion of such clause shall be subject to the agreement of the LRA's, and shall not be proposed by the Military Department where its inclusion would adversely affect the LRA's ability to attract private sector interest in the base property in accordance with the Redevelopment Plan. The conveyance documents may also include provisions which address and resolve the rights and obligations of the LRA and the Military Department with respect to the property or any payment in cash or in kind. Such provisions may include, without limitation, a provision making payment of all or part of the consideration contingent on the realization of a certain level of income from the reuse."

8. Option To Make Direct Sales.

Provision. N/A.

Issue. As noted in BENS' July 5 comments, while the President's Five-Part Plan and federal law suggest that communities should be conveyed base property directly following the McKinney Act screening period, BENS recognizes that it may be more efficient in certain circumstances for the federal government to deal directly with potential users. Accordingly, BENS recommended changes to the Interim Rule that would require such direct transfers by the Federal Government to be made consistent with the Redevelopment Plan. The Interim Rule Amendments apparently have done away with this direct transfer option.

Recommendation. To the extent that DoD's legal review determines a direct sale option to be consistent with the applicable Federal statutes, BENS recommends that the Military Department retain the option, in certain *limited* circumstances, of making direct dispositions to

private parties rather than to the community through an EDC. Such direct sales should be made only to the extent consistent with the Redevelopment Plan, and only if an otherwise valid application for an EDC is not pending. Such direct sales should by no means be a substitute for the EDC procedures set forth in the Interim Rule, and should be used only to speed up the process of putting base property to productive reuse in the context of the Redevelopment Plan.

9. Clarify Priorities.

Provision. N/A.

Issue. The original Interim Rule contained two helpful charts as appendices that set forth a flowchart and timeline for the disposal process. It is important to know how EDC's fit into these charts.

Recommendation. Expand and clarify the charts in the Interim Rule to clearly show where the EDC fits in, and what occurs before and after the EDC process.

10. Interim Leases.

Provision. Section 91.7(g) of the original Interim Rule provides for leasing of base property for less than fair market value.

Issue. Section 91.7(g) was not part of the Interim Rule Amendments, but plays an important part in the process. Any leasing of base property should be consistent with the Redevelopment Plan. Otherwise, such leases could interfere with the planned use of the property. As the OEA has stated in its materials, interim leases should be used to attract *permanent* tenants, since those are more likely to be "high value" and to improve the base property. Permanent tenants should, of course, be those targeted by the Redevelopment Plan.

Recommendation. Add a new Section 91.7(g)(5) : "Any leasing of real property shall be consistent with the Redevelopment Plan and shall be accomplished in close consultation with the LRA. If the LRA objects to a particular lease and establishes that such lease would not be consistent with the Redevelopment Plan, such lease may be entered into only with the LRA's prior approval after the Military Department has addressed the LRA's concerns."

**VINT HILL ECONOMIC
ADJUSTMENT TASK FORCE**

26B John Marshall Street
Warrenton, VA 22186
Office: (703) 347-6965
Fax: (703) 349-2304

January 3, 1995

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OASD(ES)

Office of Assistant Secretary of Defense
for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

Re: Comments on the Interim Rule Amendments

Dear Sir:

Enclosed you will find our comments and suggestions for changes to the Interim Rule Amendments published in the Federal Register on October 26, 1994.

Thank you for your considerations of these suggestions.

Sincerely,



Owen W. Bludau
Executive Director

Encl: (3)

cc: C. Hunton Tiffany, Chairman, Task Force
James Brumfield, Chairman, Board of Supervisors
Congressman Frank Wolf
N.A.I.D.

Format For Comments On The Interim Rule Amendments
32 CFR Parts 90 and 91
Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward Comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Vint Hill Economic Adjustment Task Force
(Activity/Location/Community/Installation/Group)

Page 53741

Column 1

Paragraph (f)(3)

Recommended changes: "Rural" should not be based on US Bureau of the Census definitions, but on the definitions included as "non-entitlement communities" by HUD in their Community Development Block Grant Program definitions.

Why: The US Bureau of the Census definitions of "urban" areas include fringe counties often far from the central city in the Metropolitan Statistical Area (MSA). For example, Jefferson (Charles Town) and Berkley Counties in West Virginia are in the Washington-Baltimore MSA, but no one would realistically define either county as "urban." Neither would Culpeper and Fauquier Counties in Virginia be realistically considered as urban counties. The Census definition is based primarily upon the percentage of people who commute out of the rural fringe counties to job concentrations closer to the urban core. The Bureau of the Census says this out-migration for job purposes creates "linkages" with the core area that qualifies the fringe counties as "urban."

I submit, however, that economic issues cause this artificial "linkage." Those issues are housing affordability, existing residential locations, quality of life issues, and lack of local job opportunities. No one likes to commute long distances in heavy traffic twice a day. This is a negative that people put up with because of economic necessity and/or lack of viable economic choice in lifestyle.

All other definitions, except the Bureau of the Census', define Fauquier County as rural and not part of Northern Virginia. We believe that use of the HUD definitions of "non-entitlement" communities, as used in their Community Development Block Grant Program, is a much more accurate definition of communities which are "rural" and which are "urban." We urge use of the HUD definition instead of the Bureau of the Census definition in determining whether a closing base is in an "urban" or "rural" area.

Name: Owen W. Bludau, Executive Director
Address: 26B John Marshall St.
Warrenton, VA 22186
Phone: 703-347-6965

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

**Format For Comments On The Interim Rule Amendments
32 CFR Parts 90 and 91**

**Implementing Title XXIX Of The
National Defense Authorization Act For FY94**

Forward Comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Vint Hill Economic Adjustment Task Force
(Activity/Location/Community/Installation/Group)

Page 53740

Column 1

Paragraph 91.7(e)(3)

Recommended changes: No recommended change, but suggest the following consideration on establishing "present market values" of bases be included as guidance on regulation interpretation.

Why: There are very few properties in the private sector real estate market which are comparable to a closing military base. For this reason, appraisals of military bases will be both expensive to prepare and subject to far greater ranges of value than are found where there are sales histories on numerous similar properties for comparison.

It will be difficult for local communities to fund appraisals of closing military bases, because of the high appraisal costs involved. Thus, many communities may develop "present market value" figures for their Economic Development Conveyance requests as the end product of a process of working backwards. They will start with a combined multi-year cash-flow projection which includes: 1) projected income from the sales or leases of the refurbished properties; 2) a realistic projection of grants and other income which can be used to help renovate and market the closed base; 3) minus projected costs of necessary improvements to make the base competitively marketable; and 4) minus administrative, maintenance and marketing costs to promote the site. Only after working backwards and producing a "profit" on the consolidated projection, can a community determine what they can "pay" for the site, from the profit, without incurring an overall negative cash flow on the project.

I fear that the military will want to start with an appraisal as the basis for negotiations on an Economic Development Conveyance. Without an appraisal, the estimates that a community will use will be suspect in the eyes of the negotiator for the military branch. Conversely, if the military pays for an appraisal, the same sources of income and the same estimates of costs should be used by the appraiser. Appraisers are not engineers and contractors. They will require technical cost information from more experienced sources. Therefore, they should use the most current and relevant available information from both the military and the community on renovation costs, utility system upgrade costs; administrative, maintenance and marketing costs; etc. so that the comparisons are "apples to apples" and not "apples to oranges." This will require encouragement for the military branch negotiator and the community negotiator to work closely together in determining the most realistic and necessary costs to be use in determining the "present market value" of a closing base. Resulting appraisal information should be shared by the participants.

Name: Owen W. Bludau, Executive Director
Address: 26B John Marshall St.
Warrenton, VA 22186
Phone: 703-347-6965

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

Format For Comments On The Interim Rule Amendments
32 CFR Parts 90 and 91
Implementing Title XXIX Of The
National Defense Authorization Act For FY94

Forward Comments to: Office of Assistant Secretary of Defense for Economic Security
3D814, The Pentagon
Washington, DC 20301-3300

From: Vint Hill Economic Adjustment Task Force
(Activity/Location/Community/Installation/Group)
Page various
Column various
Paragraph various

Compliment: Thank you for removing the "market test" provision contained in the previous edition. This is a big step forward and indicates that the DoD was listening to affected communities.

Recommended changes: Add the word "*present*" in front of market value, where "estimated" and "fair" are now used.

Why: The "*present*" market value of most of the buildings and infrastructure systems on Vint Hill Farms Station, as a typical example, are *not identical* to "estimated" market values, which implies that the buildings and infrastructure conform with all local and state building and permit codes. The buildings and infrastructure systems at Vint Hill Farms Station were not built subject to the local codes that similar types of buildings constructed by the private sector had to meet. Nor did the base's infrastructure systems have to meet the same conditions which our County Water and Sanitation Authority must adhere to in constructing public utility systems. The buildings and infrastructure systems must be renovated to bring them up to a comparable permitted reuse condition where they are equal to similar types of units and systems in the public and private sectors. Thus, they must be valued in their "present" conditions, recognizing the costs needed to make them comparable for reuse. This process is necessary in order to assign them a "fair" value that justly equates them to similar private sector units on the market.

Name: Owen W. Bludau, Executive Director
Address: 26B John Marshall St.
Warrenton, VA 22186
Phone: 703-347-6965

(NOTE: LIMIT TO 1 COMMENT PER PAGE)

#30

TRENT LOTT
MISSISSIPPI
SECRETARY
REPUBLICAN CONFERENCE

United States Senate

WASHINGTON, DC 20510-2403

RECEIVED

JAN 9 1995

OASD(ES)

COMMITTEES:
ARMED SERVICES
BUDGET
COMMERCE, SCIENCE, AND
TRANSPORTATION
ENERGY AND NATURAL
RESOURCES

January 3, 1995

The Honorable William J. Perry
Secretary
Department of Defense
The Pentagon, Room 3E880
Washington, DC 20301

Dear Mr. Secretary:

I wanted to write to you on behalf of Jim Majure, Mississippi Director of Surplus Property. Jim is very concerned about the new rules for dealing with real surplus property.

The enclosures with this letter detail the nature of the concern and should be self explanatory. I would sincerely appreciate you and your staff looking into this situation in a way that will provide every possible assistance. Should you have any questions about these materials, please feel free to make any direct constituent contact you feel necessary for whatever additional information you or your staff might need.

As you would probably expect, I place a high priority on looking into constituent concerns and would like to respond on this in a very personal way. Therefore, it would help expedite my handling of this case if you could refer my constituents by name in your reply. Again, I truly appreciate your time and attention to this for me.

I look forward to hearing from you soon, and with kind regards and very best wishes, I am

Sincerely yours,



Trent Lott

TL:fbr

Enclosure

cc: Honorable Joshua Gotbaum
Assistant Secretary for Economic Security

PLEASE REPLY TO:

☐ 245 EAST CAPITOL STREET
SUITE 226
JACKSON, MS 39201

☐ 3100 S. PASCAGOULA STREET
PASCAGOULA, MS 39567

☐ P.O. BOX 1557
GULFPORT, MS 39502

☐ 101 S. LAFAYETTE STREET
STARKVILLE, MS 39759

☐ P.O. BOX 1474
OXFORD, MS 38655

☐ 200 E. WASHINGTON STREET
SUITE 145
GREENWOOD, MS 38930



STATE OF MISSISSIPPI

DEPARTMENT OF FINANCE AND ADMINISTRATION

EDWARD L. RANCK
EXECUTIVE DIRECTOR

November 10, 1994

The Honorable Trent Lott
United States Senate
Russell Senate Office Building 487
Washington, D. C. 20510

Dear Senator Lott:

First, let me congratulate you on your re-election. I look forward to working with you more closely as the years go by. This letter is in response to a letter written to you by the Assistant Secretary of Defense, Joshua Gotbaum, dated November 1, 1994. The purpose of his letter appears to solicit your support on what appears to be a "done deal", which is procedures for the conveyance of surplus base closure properties. I feel that my response to you has the support of all Directors of State Surplus Property Offices throughout the nation.

We are actually talking about two different types of surplus property. The one that appears to be mentioned most often in this letter from the Assistant Secretary of Defense pertains to real property. My response pertaining to real surplus base closure properties would be that what they have proposed here is not changeable and as long as our Governor has the authority to appoint a committee to make recommendations on the reuse of this property, I feel that it is worthy of your support.

I do have reservations about the political aspects of which you very well understand when the Department of Defense is the decision maker with input from the United States Executive Branch. But as he has written in this letter and as I understand the rules and regulations conveyed here, I assume that we have little or no choice in this matter. I feel like it is worthy of your support as it is written.

The second type of surplus base closure property is personal property in which I have more experience and interest in. I would like to ask if this would be an appropriate time to offer some type of amendment to convey a different plan of procedure for the conveyance of surplus base closure personal property. The taxpayers of our state, as well as other states throughout the nation, could better be served if the personal property generated by base closures were to be distributed through General Services Administration and allocated to the



state agencies of surplus property under their guidelines rather than the executive branch or the Department of Defense. Please require that Department of Defense comply with the Federal Property and Administrative Services Act of 1949.

General Services Administration, as well as, state agencies of surplus property have the facilities, expertise, and experience to insure parity in the conveyance of personal surplus property. Here again I feel that the political aspects in the conveyance of personal surplus property will penalize the taxpayers of our state and other states when the time comes to actually convey this property to the local area.

My recommendation would be for you to support this particular change of procedure that the Secretary of Defense is proposing as it pertains to real surplus property, but to also attempt to amend the law and procedures to involve General Services Administration and the state agencies along with the Governors office and his Local Redevelopment Commission. I feel that this amendment or change of procedure would be the only completely fair system of allocating personal surplus property to our state.

The Office of Surplus Property is here to serve the people of Mississippi. If you have any further questions, do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, reading "Jim Majure", is positioned above the typed name.

Jim Majure
Director, Office of Surplus Property

JM:lf



U.S. Department of
Transportation
Office of the Secretary
of Transportation

GENERAL COUNSEL

RECEIVED

JAN 12 1995

OASD(ES)

400 Seventh St., S.W.
Washington, D.C. 20590

#31

RF
=

January 10, 1995

Honorable Joshua Gotbaum
Assistant Secretary of Defense
for Economic Security
Room 3D 154
The Pentagon
Washington, D.C. 20301-3300

Dear Josh:

We appreciate the outstanding work that the Department of Defense has performed on the revitalization of base closure communities and would like to thank you and the members of your staff for considering our comments on the interim final rule regarding this important issue. However, we would like to bring to your attention our specific comments on the amended interim final rule published in the Federal Register on October 26, 1994. 59 *Fed. Reg.* 53735 *et seq.* This letter is not intended for inclusion in the public docket so as not to prohibit interagency discussion.

We believe that the amended interim final rule should require the applicable military department to formally consult with Federal agencies such as this Department's Maritime and Federal Aviation Administrations (MARAD and FAA, respectively) concerning relevant public use conveyance programs before it disposes of surplus base closure property pursuant to an economic development conveyance (EDC). Pursuant to Section 2927 of the National Defense Authorization Act for Fiscal Year 1994, MARAD, through its delegated authority, is to identify and convey to the states or any political subdivisions thereof surplus base closure properties for public use as port facilities. Because port authorities are faced with conflicting land use demands and the scarcity of suitable property to meet this country's expanding port and intermodal cargo demands, MARAD has a compelling need to participate in decisions regarding surplus base closure property that could be utilized as a port facility, but is to be otherwise unconditionally transferred under an EDC.

Likewise, it is imperative that the military department consult with FAA regarding the closure of military airfields that could be utilized as civilian airfields. FAA is charged with promoting air commerce and relieving capacity and congestion problems within the airport system. The National Plan of Integrated Airport Systems is a mechanism by which FAA strives to accomplish its responsibilities. Many closing military airfields are considered for inclusion in this national plan and should be conveyed as a public airport under 49 U.S.C. 47151 (formerly known as the Surplus Property Act of 1944, *as amended*). Therefore, disposal of military

airfields pursuant to an unconditional EDC without first consulting with FAA could adversely impact our nation's air commerce.

Consequently, we recommend that section 91.7(e)(7) of the interim final rule be further amended to include the following language:

The military department shall formally consult with Federal agencies whose public benefit conveyance programs may be affected by an EDC. Consultation shall be initiated immediately after the application for an EDC is received and no record or decision is to be issued nor any disposal commitment to the reuse authority is to be made prior to the conclusion of such consultation. When consulting with the Federal agency, the military department shall provide the agency representative with a copy of the completed EDC application, a copy of the community reuse plan and any other relevant information.

Also, regarding section 91.7(e)(6)(v), we recommend that "ports and port facilities" be added to the list of potential uses for property conveyed under public benefit transfers.

Thank you for the opportunity to comment on the amended interim final rule.

Sincerely,



Stephen H. Kaplan

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CLERK AND STAFF DIRECTOR

KEITH F. MARLAND

TELEPHONE
 (202) 225-3771

Congress of the United States

House of Representatives

Committee on Appropriations

Washington, D.C. 20515

May 22, 1985

Mr. Robert A. Stone
 Deputy Assistant Secretary of Defense (Installations)
 Office of the Assistant Secretary of Defense
 Washington, D.C. 20301-4000

Dear Mr. Stone:

This is in response to your letter of May 6, 1985 notifying the Committee of your intention to lease 1400 units of family housing near Fort Drum, New York. The Committee does not necessarily concur in your analysis that the leasing of these units is more cost effective than military construction. Because of the number of assumptions necessary and the length of time involved, a definitive economic analysis is not possible. The costs of the two alternatives are roughly equivalent in our view.

The Committee has no objection to the Army proceeding with this lease agreement. There is no question that this method will provide the urgently required housing for the stationing of the 10th Mountain Division (Light Infantry) at Fort Drum in the quickest possible time. All future requests for leasing authorized by Section 801 of Public Law 98-115 will be reviewed on a case by case basis.

Sincerely,

Bill Hefner

Bill Hefner, Chairman
 Appropriations Subcommittee on
 Military Construction

CF: ASA(IL)
 ASA(FM)
 DACA-BUA
 DACA-BUR
 ACE
 DAB

#632



MANPOWER
INSTALLATIONS
AND LOGISTICS

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, DC 20301-4000

6 MAY 1985

Honorable Mark O. Hatfield
Chairman, Committee on Appropriations
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Pursuant to the requirement stated in Section 801 of Public Law 98-115, the Military Construction Authorization Act of 1984, there is submitted herewith an economic analysis of proposed contracts under which the Secretary of the Army would lease 1,400 units of family housing to be constructed near Fort Drum, New York. This housing is urgently required for stationing of the 10th Mountain Division (Light Infantry) at Fort Drum.

These units were authorized by Section 806(a) of Public Law 98-407 (600 units) and Section 8109 in Public Law 98-473 (98 Stat. 1943) (800 units). In order to cooperate with local officials and to minimize the impact on community infrastructure, the Department of the Army issued requests for proposals for a 600-unit project in the City of Watertown, and two 400-unit projects in the surrounding area.

The economic analysis demonstrates that the proposed contracts are cost-effective when compared with military construction as an alternative means of furnishing the same housing facilities. For the total 1,400 units, the total difference in present-worth net cost between construction and leasing would be approximately \$9.5 million.

Those proposals which the Department of the Army has concluded to be the best in terms of cost/quality

point ratio formed the basis for the economic analysis. This analysis has been approved by the Office of Management and Budget.

Also furnished for your information are a Summary of Proposals (Encl 2) and a Draft of Proposed Lease (Encl 3).

I fully concur with the intention of the Secretary of the Army to enter into these contracts as soon as your review period is completed. If you so desire, I will be pleased to discuss this proposal with your Committee.

Sincerely,


acting for Robert A. Stone
Deputy Assistant Secretary of Defense
(Installations)

Enclosures

*Robert A. Stone to
Colonel, 1st and 2nd*



THE OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301-8000

ACQUISITION AND
LOGISTICS

27 SEP 1985

Honorable W.G. (Bill) Hefner
Chairman, Subcommittee on
Military Construction
Committee on Appropriations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Reference is made to your letter of September 16, 1985, in which you provided notification that the Committee objected to the proposed lease contract at Hanscom Air Force Base, Massachusetts, for 163 family housing units in accordance with Section 801 of Public Law 98-115.

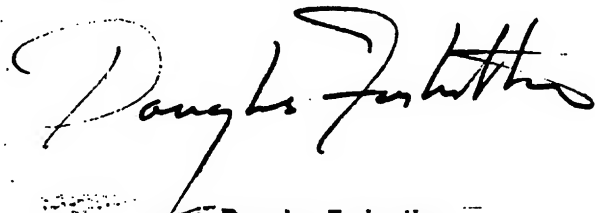
In response to the Committee's decision to disapprove the project due to cost, the developer offered to reduce costs. Based on agreed upon deletions and changes, the annual total cost of the 163-unit complex has been reduced from \$2,406,050 to \$2,283,350. This reduction, when incorporated into the economic analysis, shows the alternative of build-lease to be five percent more favorable than conventional construction cost.

The economic analysis for the build-lease project at Hanscom was prepared in accordance with standard, established procedures. It did not consider the alternative of relying on the basic quarters allowance plus the variable housing allowance because this alternative was not available. In the geographic area surrounding Hanscom, housing is simply not available in the configuration or quantity to make it a viable option for military families. Our surveys of the area indicate that there is less than a one percent vacancy rate for housing units on the economy. In addition, the National Association of Realtors, in a report of August 13, 1985, stated that housing prices in the Boston area are rising faster than any other market in the nation.

The services have been continually challenged to use innovative techniques to obtain family housing assets. The Section 801 test program for build-lease construction offers an opportunity

to satisfy a valid requirement in a new manner. We are satisfied that the estimated costs pass the test of comparability with the conventional methods of acquiring military family housing. We have complied with the procedures established under Section 801 and the proposed project has been reviewed and accepted by the OMB and GAO. Since the housing is clearly needed and the existing authorization expires on 30 September, we are proceeding with award of the contract at the reduced price.

Sincerely,

A handwritten signature in dark ink, appearing to read "Douglas Farbrother", written in a cursive style.

Douglas Farbrother
Acting Deputy Assistant Secretary Of Defense
(Installations)

PROJECT COOL HOME

**ECONOMIC
ANALYSIS
FOR
PROVIDING USAF
FAMILY HOUSING
FOR EIELSON AFB
ALASKA**

PREPARED BY: HQ AAC/DE

REVISED 17 AUG 84

Project COOL HOME
Eielson AFB, AK

TABLE OF CONTENTS

Executive Summary

Section I	Objective
Section II	Requirement
Section III	Assumptions
Section IV	Alternatives
Section V	Preferred Alternative
Section VI	Sensitivity Factors
Section VII	Benefit Analysis
Section VIII	Summary of Costs

Attachments

1. Alternative I, Cost Estimate, MCP, HQ USAF/LEEC Unit Costs
2. Alternative IA, Cost Estimate, MCP, HUD Unit Costs
3. Alternative II, Proposal Build, Lease and Maintain 300 Family Housing Units
4. Appendix I, Revised Summary of Costs, 20 year with Investment Tax Credit
5. Appendix II, Revised Summary of Costs, 40 year
6. Appendix III, Revised Summary of Costs, 40 year with Investment Tax Credit
7. Appendix IV, Summary of COOL HOME Build/Lease Cost Savings

EXECUTIVE SUMMARY

The COOL HOME project was developed in response to a pressing housing deficit at Eielson AFB utilizing the authority granted in Public Law 98-115.

The RFP issued April 1984 for a 20-year lease of 300 MFH units generated responses from four proposers. The Alaskan Air Command convened Technical Evaluation Boards and ranked the proposals. In this analysis, the proposals were compared to the MCP alternative using appropriated monies. Annual inflation/escalation rates of 4.4% were applied to recurring (maintenance) costs. (AFR 173-13)

The analysis showed a cost savings, using the highest ranking build-lease proposal, of \$11,091,000 in life cycle costs over the conventional MCP project using appropriated monies. Inflation was also shown not to be a significant factor in the comparison. When tax implications are considered over the year life cycle, the build-lease project shows a savings of \$8,970,000 (using the 10% discount rate) over the MCP project.

In conclusion, the build-lease approach is an outstanding concept to acquire housing at Eielson AFB, and is more economical than government owned housing.

NARRATIVE

I. OBJECTIVE: The objective of this analysis is to determine the most cost effective method of meeting the Air Force family housing requirements at Eielson AFB, Alaska.

II. REQUIREMENT: Existing housing at Eielson consists of 1163 units, most of which were constructed in the early to mid fifties. The increased housing requirements generated by the addition of A-10 aircraft in 1981/1982 have generated a significant deficit in military family housing at Eielson. The latest housing survey (dated 26 March 1984), done in accordance with AFR 90-2, shows a net housing deficit of 684 units. The programming deficit is 447 units. The lack of infrastructure to support a large housing project and the lack of suitable reasonably priced land for development in the Eielson area make private housing developments unattractive. Eielson is over 20 miles from the nearest town (Fairbanks) of any significant size. Housing is in short supply in the Fairbanks area as well. Housing developments in this area are expensive due to high construction costs and the expensive construction techniques required in this area of discontinuous permafrost and severe winter climate. Public Law 98-115 authorizes the Air Force to pursue build-lease initiatives to lease up to 300 units of housing. The large deficit at Eielson more than justifies a 300 unit build-lease project.

III. ASSUMPTIONS:

A. That the Air Force will require housing at Eielson AFB for at least 20 years; the economic life of the project.

B. The rent to satisfy the lease will be appropriated by Congress for that purpose.

C. For the build-lease or the MCP alternatives, the utility costs would be the same, so utility costs are not a factor in the evaluation of the alternatives.

D. For build-lease and the MCP alternatives, the rate of escalation of the maintenance costs will be the same for each alternative. The escalation rate (4.4 APR) specified in AFR 173-13 was used in this analysis.

E. The residual value of the build-lease housing to the Air Force is zero.

F. The residual value at the 20th year of the MCP alternative is 50% of the construction cost. The 50% value was based on the assumption that the economical life of military family housing is 40 years.

IV. ALTERNATIVES: The following alternatives were considered in COOL HOME. Alternative No. I: Construct 300 new family housing units using the MCP program and appropriated funds. Alternative No. II: Build and lease 300 new family housing units on government owned property with private financing.

A. ALTERNATIVE I: MCP Funding

(1) In this alternative, housing construction will be funded using appropriated monies. For this alternative, the FY86 Family Housing unit costs

from HQ USAF/LEEC letter, subject: "Unit Costs, DOD Facilities" dated 11 May 84 were used as a basis for construction costs. The local area cost factor was determined from the "Material and Labor Cost Indexes" from OSD dated 1 March, 84, and transmitted by HQ USAF/LEEC letter dated 15 Mar 84.

(2) The unit cost of \$46.00 per square foot times the area cost factor of 2.03 for Eielson AFB, AK gives a square foot cost of \$93.38 per square foot.

(3) Total construction costs for 300 housing units with garages is \$33,139,050 and supporting facilities at \$13,936,690 for a total project cost including contingency and SIOH of \$52,642,233.

(4) The attached cost summaries show that this alternative will cost \$11,091,000 more than the build lease project over the twenty year comparison period.

B. ALTERNATIVE II: Build and Lease (Private Financing)

(1) Proposals to build and lease family housing units on Eielson AFB, AK were solicited from private developers under the provisions of Public Law 98-115.

(2) The best proposal submitted will provide 150 two bedroom and 150 three bedroom units with garages for an annual lease cost of \$3,600,000. Maintenance will be performed by the developer over the 20 year period of the lease. Maintenance costs inflated over the 20 year lease period are shown in the attached cost analyses.

(3) This alternative is the most attractive, as it will provide housing by Sep 1986 at a savings of \$11,091,000 over the 20 year lease period.

V. Preferred Alternative: The build lease project, Alternative II is the preferred alternative. Excellent housing should be provided at a 20 year life cycle savings of \$11,091,000. Considering tax implications this figure drops to \$8,970,000 (using a 10% discount rate). A summary of tabulated costs of all the alternatives considered in this analysis is in Appendix IV.

VI. Sensitivity Factors: Variations in the actual first costs of the construction of the MCP alternative could make large differences in the present value of this alternative. The costs are based on past experience with housing construction in the defense department. We have reviewed other sources of cost estimating data. The local Housing and Urban Development (HUD) office uses a figure of \$80 per gross square foot for housing in Alaska. This figure reflects construction with less stringent requirements than required by military housing criteria. This \$80/SF figure meshes well and supports the use of the MCP unit costs (i.e., 93.38/SF) used in this analysis since the latter figure includes inspection and contract administration costs while the HUD figure does not. The only recent local bid experience is a small 38 unit project at Ft Greely. This project is to construct several different size units ranging from 980 SF to 1640 SF. The project is a two step procurement effort now in the final selection stage. Unofficially the housing will probably cost about \$78 per gross square foot, exclusive of major utility construction costs. As part of this sensitivity analysis, we have included a calculation of the life cycle costs of the MCP alternative using an \$80 per sq. ft. cost of construction. This analysis still shows the build-lease project to be the most economical alternative. In order for the life cycle costs of alternative I to equal the COOL HOME alternative, the price per square foot of

the MCP alternative would have to be \$61 per sq. ft. assuming estimates for site and utility work does not change. This is unreasonably low and the COOL HOME alternative is by far the most cost effective approach to acquire housing at Eielson AFB. Variations in the escalation rate for maintenance costs will produce very small changes in life cycle costs.

A. Twenty Year Residual Value Sensitivity: To determine if the 20 year residual value of the government housing is critical to the evaluation, a 40 year TLCC was calculated. This calculation shows a cost savings of about \$10,466,000 which indicates the assumed residual value at 20 years of the government housing is not critical to the evaluation. The actual costs of the build lease project beyond the 20 year lease period are indeterminate at this time. The 20 year lease costs were assumed to apply in preparing this analysis. This approach should be conservative since the last 20 year lease costs should be less than the first 20 year period (assuming constant dollars). The tabulated costs for this analysis are in Appendix II.

B. Tax Cost Sensitivity:

(1) We have calculated the effects of potential lost tax revenues on the project. Tax effects used tabulated guidance from HQ USAF/ACM, HQ ATC/ACM and a formula generated primarily by OSD/PA & E. The formula used is:

$$DF \times \left[\frac{ITC}{1-TR} + \frac{ACRS - SLD}{1-TR} \right] \times TR$$

WHERE:

DF = Discount Factor
ITC = Investment Tax Credit
TR = Tax Rate
ACRS = Accelerated Cost Recovery System
SLD = Straight Line Depreciation

(2) This formula was used to calculate the potential tax revenue lost to the Treasury as a result of the tax incentives available through TPF. This data will be used in the Economic Analysis (EA) to compare in-house versus TPF for the COOL HOME project.

(3) Certain decisions and assumptions were necessary in order to perform the TPF analysis:

- (a) The tax rate was assumed to be 46 percent.
- (b) Investment tax credit did not apply to the COOL HOME project because it is not available for investment in real property.
- (c) The contractor's depreciable cost was estimated as follows:

Average Unit Cost	90,000	
Number of Units	<u>x 300</u>	
Subtotal		27,000,000
Supporting Facilities (e.g., Site Improvements, Utilidors and Utilities, Transformers, Communication Support)		<u>13,936,700</u>
Total Depreciable Contractor Investment		40,936,700

(d) Straight-Line ACRS recovery period was assumed to be 15 years.

(4) Using discount rates of 7, 10, and 15 percent, the increased cost to the government resulting from the tax implications of ACRS are \$1,787,100; \$2,121,400; and \$2,399,700 respectively. In each case, the TPF remains most economical, with savings of \$8,679,000 (7%), \$8,345,000 (10%) and \$8,066,000 (15%). The tax analysis summaries of cost are in Appendix I.

VII. Benefit Analysis: The COOL HOME Project will not only prevent family separation for 300 families but will also increase morale and productivity, reduce the number of PCS moves and lessen the training requirements caused by the excessive number of short, unaccompanied tour selections resultant of lack of available housing both on and off base.

VIII. Methodology COOL HOME Economic Analysis:

A. Estimated cost of the Alternative No. I, MCP funding was based on HQ USAF/LEEC Unit Costs, DOD Facilities, 11 May 84.

B. Actual cost of the Alternative No. II Build/Lease Private Financing was obtained from the highest ranking proposal.

C. Costs on the economic analysis format C for Alternatives I and II portray the appropriate costs for each year of the 20 year economic life. Costs are depicted in both constant FY86 dollars and in present value dollars which were obtained by discounting the constant dollar estimate at 10% in accordance with AFR 178-1, Economic Analysis and Program Evaluation.

D. Based on the present value of life cycle costs, the alternative of lease/build is approximately \$11,091,000 less than building with MCP funds.

ALTERNATIVE 1
MCP FUNDING

Cost Estimate, 300 Family Housing Units, Eielson AFB, AK:

Basis of estimate: HQ USAF/LEEC Unit Costs
DOD Facilities, 11 May 84

Requirements:

150 Enlisted, 2 Bedroom units 950 NSF, 1187 GSF, AFM 88-25
150 Enlisted, 3 Bedroom units 1200 NSF, 1350 GSF, AFM 88-25
300 Garages, 1 car, 288 GSF

Unit Costs:

Unit Cost \$46 sq ft x area factor 2.03 = \$93.38 sq ft
Unit Cost garage \$35 sq ft

Primary Facility:

3 Bedroom 93.38 x 1200 = \$112,056 per unit
2 Bedroom 93.38 x 950 = \$ 88,711 per unit
Garage 35.00 x 288 = \$ 10,080 per unit

Supporting Facilities:

Primary Elec Transmission	\$ 578,676
Secondary Elec	\$ 197,208
Primary Transformers	\$ 155,376
Secondary Transformers (substation)	\$ 266,679
Utilidors and Utilities	\$ 5,090,431
Site Improvements	\$ 5,557,600
Roads Sidewalks & Parking	\$ 1,970,720
Comm Support	\$ 120,000

$\$13,936,690 \div 300 = \$46,455$

Total Cost Per Unit:

3 Bedroom 112,056 + 10,080 + 46,455 = \$168,591
2 Bedroom 88,711 + 10,080 + 46,455 = \$145,246

Project Costs 300 Units:

3 Bedroom 150 x \$168,591 = \$25,288,650
2 Bedroom 150 x \$145,246 = \$21,786,900

TOTAL 300 Units \$47,075,550

5% Contingency	\$ 2,353,777
Subtotal	<u>\$49,429,327</u>

6.5% SIOH/EAW \$ 3,212,906

TOTAL CWE \$52,642,233

ALTERNATIVE I (Continuation)

Government Maintenance Cost, 300 Family Housing Units: (First Year)

Based on materials equipment and personnel costs:

Maint, Per month, per unit	\$ 89.00
Maint, Per year, per unit	\$ 1,068.00
Maint, Per year, 300 units	\$320,400.00

ALTERNATIVE IA

Cost Estimate, 300 Family Housing Units, Eielson, AFB, AK:

Basis of Estimate: Average building costs of residential construction, Fairbanks, AK. Data provided by HUD.

Requirements:

150 Enlisted, 2 Bedroom units 950 NSF, 1187 GSF, AFM 88-25
150 Enlisted, 3 Bedroom units 1080 NSF, 1350 GSF, AFM 88-25
300 Garages, 1 car 288 GSF

Unit Costs:

Unit cost, Housing \$80.00 sq ft
Unit cost, Garage \$35.00 sq ft

Primary Facility:

3 Bedroom 80 x 1350	\$108,000
2 Bedroom 80 x 1187	\$ 94,960
Garage 35 x 288	\$ 10,080

Supporting Facilities:

Primary Elec Trans	\$ 578,676
Secondary Elec	\$ 197,208
Primary Transformers (substation)	\$ 155,376
Secondary Transformers	\$ 266,679
Utilidors and Utilities	\$ 5,090,431
Site Improvements	\$ 5,557,600
Roads Sidewalks & Parking	\$ 1,970,720
Comm Support	\$ 120,000

TOTAL $\$13,936,690 \div 300 = 46,455$

Total Cost Per Unit:

3 Bedroom $108,000 + 10,080 + 46,455 = \$164,535$
2 Bedroom $94,960 + 10,080 + 46,455 = \$151,495$

Project Costs 300 Units:

3 Bedroom $150 \times 164,632 = 24,680,250$
2 Bedroom $150 \times 151,592 = 22,724,250$

Total 300 Units = 47,404,500

5% Contingency 2,370,225

Subtotal 49,774,725

6.5% SIOH/EAW 3,081,293

Total CWE \$52,856,018

ALTERNATIVE IA (Continuation)

Government Maintenance Cost, 300 Family Housing Units: (First Year)

Based on materials equipment and personnel costs:

Maint, Per month, per unit	\$ 89.00
Maint, Per year, per unit	\$ 1,068.00
Maint, Per year, 300 units	\$320,400.00

ALTERNATIVE II.

Proposal to Build, Lease and Maintain 300 Family Units on leased Government land using private financing for construction.

Bid Item	No of Units	Cost Per Month	Cost Per Year
Three Bedroom Housing Units with garage	150	\$142,500.00	\$1,710,000.00
Two Bedroom Housing Units with garage	150	\$157,500.00	\$1,890,000.00
Maintenance, 3 Bedroom	150	\$ 9,500.00	\$ 114,000.00
Maintenance, 2 Bedroom	150	\$ 8,500.00	\$ 102,000.00
TOTALS		\$318,000.00	\$ 3,816,000.00

This selected proposal will provide Family Housing units which meet DOD space requirements for enlisted personnel. The quality of design and construction exceeds the DOD Family Housing Standards.

Appendix I

FORMAT C--SUMMARY OF COSTS FOR ECONOMIC ANALYSIS/PROGRAM EVALUATION STUDIES

1. Submitting OOO Component: HQ AAC/DE 2. Date of Submission 17 Aug 84 (REVISED)
3. Project Title: COOL HOME
4. Description of Project Objective: To provide military family housing for Eielson AFB
5. Alternative: Build/Lease housing. Private developer builds housing to lease to USAF
6. Economic Life: 20 Years
7. Program/Project Costs: (\$000)

a. Project year	b. Nonrecurring Costs				c. Recurring Costs		d. Annual Costs		e. Discount factor	f. Discounted Annual Cost (d x e)	
	(1) Constant dollar		(2) Inflated dollar		(3) Constant dollar	(4) Inflated dollar	(1) + (3) Constant dollar	(2) + (4) Inflated dollar		Constant dollar	Inflated dollar
	R&D	Invest- ment	R&D	Invest- ment							
1986					3816	3816	3816	3816	.909	3469	3468
1987					3816	3826	3816	3826	.826	3152	3160
1988					3816	3835	3816	3835	.751	2866	2881
1989					3816	3846	3816	3846	.683	2606	2627
1990					3816	3857	3816	3857	.621	2370	2395
1991					3816	3868	3816	3868	.564	2152	2181
1992					3816	3880	3816	3880	.513	1958	1991
1993					3816	3892	3816	3892	.467	1782	1817
1994					3816	3905	3816	3905	.424	1618	1655
1995					3816	3918	3816	3918	.386	1473	1513
1996					3816	3932	3816	3932	.351	1339	1381
1997					3816	3947	3816	3947	.319	1217	1259
1998					3816	3962	3816	3962	.290	1107	1149
1999					3816	3978	3816	3978	.263	1004	1046
2000					3816	3995	3816	3995	.239	912	954
2001					3816	4012	3816	4012	.218	832	875
2002					3816	4030	3816	4030	.198	756	798
2003					3816	4049	3816	4049	.180	687	729
2004					3816	4069	3816	4069	.164	626	667
2005					3816	4089	3816	4089	.149	569	609
Total					76320	78706	76320	78706	9.079	32495 + 2400 34895	33155
TAX IMPLICATION AT 15% DISCOUNT RATE											
.											
.											
.											

8. Uniform Annual Cost:
- | | Constant Dollar | Inflated Dollar |
|---------------------------------|-----------------|-----------------|
| a. Without terminal value | \$ 3,579 | \$ 3,652 |
| b. With terminal value | \$ | \$ |
9. Discounted total cost without terminal value:
- | | | |
|---|-----------|-----------|
| a. Less discounted terminal value | \$ | \$ |
| b. Net discounted total cost | \$ 34,895 | \$ 33,155 |

10. Source/Derivation of Cost Estimates (use as much space as required):

a. Nonrecurring Costs:

(1) Research & Development N/A

(2) Investment N/A

b. Recurring Costs \$216 per year maint. and \$3,600 per year leasing

Source: Contract Bid

c. Net Terminal Value

d. Other Considerations (include discount factor(s) and justification) Escalation at 4.4% based on

11. Name and Title of Principal Action Officer:

OSD Inflation Factors, 6 Jan 84

Atch

1. Submitting DOD Component: HQ AAC/DE 2. Date of Submission (REVISED) 17 Aug 84
3. Project Title: COOL HOME
4. Description of Project Objective: To provide military housing for Fielson AFB AK
5. Alternative: Military Construction - DOD Cost Estimate
6. Economic Life: 40 Years
7. Program/Project Costs: (\$000)

a. Project year	b. Nonrecurring Costs				c. Recurring Costs		d. Annual Costs		e. Discount factor	f. Discounted Annual Cost (d x e)	
	(1) Constant dollar		(2) Inflated dollar		(3) Constant dollar	(4) Inflated dollar	(1) + (3) Constant dollar	(2) + (4) Inflated dollar		Constant dollar	Inflated dollar
	R&D	Investment	R&D	Investment							
1986		26321		26321	216	216	26537	26537	.909	24122	24122
1987		26321		27479	216	226	26537	27705	.826	21920	22884
1988					216	235	216	235	.751	162	177
1989					216	246	216	246	.683	148	168
1990					216	257	216	257	.621	134	159
1991					216	268	216	268	.564	122	151
1992					216	280	216	280	.513	111	144
1993					216	292	216	292	.467	101	136
1994					216	305	216	305	.424	92	129
1995					216	318	216	318	.386	83	123
1996					216	332	216	332	.351	76	117
1997					216	347	216	347	.319	69	111
1998					216	362	216	362	.290	63	105
1999					216	378	216	378	.263	57	99
2000					216	395	216	395	.239	52	94
2001					216	412	216	412	.218	47	90
2002					216	430	216	430	.198	43	85
2003					216	449	216	449	.180	39	81
2004					216	469	216	469	.164	35	77
2005					216	489	216	489	.149	32	73
2006					216	511	216	511	.135	29	69
2007					216	534	216	534	.123	27	66
2008					216	557	216	557	.112	24	62
2009					216	581	216	581	.102	22	59
2010					216	607	216	607	.092	20	56
2011					216	634	216	634	.084	18	53
2012					216	662	216	662	.076	16	50
2013					216	691	216	691	.069	15	48
2014					216	721	216	721	.063	14	45
2015					216	753	216	753	.057	12	43
2016					216	786	216	786	.052	11	41
2017					216	821	216	821	.047	10	39
2018					216	857	216	857	.043	9	37
2019					216	894	216	894	.039	8	35
2020					216	934	216	934	.036	8	34
2021					216	975	216	957	.032	7	31
2022					216	1018	216	1018	.029	6	30
2023					216	1063	216	1063	.027	6	29
2024					216	1109	216	1109	.024	5	27
2025					216	1158	216	1158	.022	5	25
TOTALS		52642		53800	8640	22572	61282	76372	9.779	47780	50004

8. Uniform Annual Cost:

	Constant Dollar	Inflated Dollar
a. Without terminal value	\$ 4886	\$ 5113
b. With terminal value	\$ _____	\$ _____
9. Discounted total cost without terminal value: \$ _____
- a. Less discounted terminal value \$ _____
- b. Net discounted total cost \$ 47780 \$ 50004

10. Source/Derivation of Cost Estimates (use as much space as required):

a. Nonrecurring Costs:

(1) Research & Development N/A

(2) Investment

HQ AAC/DE Construction Cost Estimate

b. Recurring Costs

HQ AAC/DEE \$320K Per Year Maintenance

c. Net Terminal Value

d. Other Considerations (include discount factor(s) and justification)

Escalation at 4.4% based on

OSD Inflation Factors, 6 Jan 84

1. Submitting DOD Component: HO AAC/DE
2. Date of Submission (REVISED) 17 Aug 84
3. Project Title: COOL HOME
4. Description of Project Objective: To provide Military Family Housing for Eielson AFB, AK
5. Alternative: Build/Lease Housing - Private developer builds housing to lease to USA
6. Economic Life: 40 Years
7. Program/Project Costs: (\$000)

a. Project year	b. Nonrecurring Costs				c. Recurring Costs		d. Annual Costs		e. Discount factor	f. Discounted Annual Cost (d x e)	
	(1) Constant dollar		(2) Inflated dollar		(3) Constant dollar	(4) Inflated dollar	(1) + (3) Constant dollar	(2) + (4) Inflated dollar		Constant dollar	Inflated dollar
	R&D	Invest- ment	R&D	Invest- ment							
1986					3816	3816	3816	3816	.909	3468	3468
1987					3816	3826	3816	3826	.826	3152	3160
1988					3816	3835	3816	3835	.751	2866	2881
1989					3816	3846	3816	3846	.683	2607	2627
1990					3816	3857	3816	3857	.621	2370	2395
1991					3816	3868	3816	3868	.564	2152	2181
1992					3816	3880	3816	3880	.513	1958	1991
1993					3816	3892	3816	3892	.467	1782	1871
1994					3816	3905	3816	3905	.424	1618	1655
1995					3816	3918	3816	3918	.386	1473	1513
1996					3816	3932	3816	3932	.351	1340	1381
1997					3816	3947	3816	3947	.319	1217	1259
1998					3816	3962	3816	3962	.290	1107	1149
1999					3816	3978	3816	3978	.263	1004	1046
2000					3816	3995	3816	3995	.239	912	954
2001					3816	4012	3816	4012	.218	832	875
2002					3816	4030	3816	4030	.198	756	798
2003					3816	4049	3816	4049	.180	687	729
2004					3816	4069	3816	4069	.164	625	667
2005					3816	4089	3816	4089	.149	568	609
2006					3816	4111	3816	4111	.135	515	555
2007					3816	4134	3816	4134	.123	470	509
2008					3816	4157	3816	4157	.112	427	465
2009					3816	4181	3816	4181	.102	389	426
2010					3816	4207	3816	4207	.092	351	387
2011					3816	4234	3816	4234	.084	320	355
2012					3816	4262	3816	4262	.076	290	324
2013					3816	4291	3816	4291	.069	263	296
2014					3816	4321	3816	4321	.063	241	272
2015					3816	4353	3816	4353	.057	217	248
2016					3816	4386	3816	4386	.052	198	228
2017					3816	4421	3816	4421	.047	179	208
2018					3816	4457	3816	4457	.043	164	192
2019					3816	4494	3816	4494	.039	148	175
2020					3816	4534	3816	4534	.036	138	164
2021					3816	4575	3816	4575	.032	122	146
2022					3816	4618	3816	4618	.029	110	134
2023					3816	4663	3816	4663	.027	103	126
2024					3816	4709	3816	4709	.024	91	113
2025					3816	4758	3816	4758	.022	84	104
TOTAL					52640	166572	152640	166572	9.779	37314	38582
.											
.											
.											

8. Uniform Annual Cost:
- | | Constant Dollar | Inflated Dollar |
|--|-----------------|-----------------|
| a. Without terminal value | \$ 3816 | \$ 3954 |
| b. With terminal value | \$ | \$ |
| 9. Discounted total cost without terminal value: | \$ | \$ |
| a. Less discounted terminal value | \$ | \$ |
| b. Net discounted total cost | \$ 37314 | \$ 38582 |

10. Source/Derivation of Cost Estimates (use as much space as required):

a. Nonrecurring Costs:

(1) Research & Development N/A

(2) Investment N/A

b. Recurring Costs \$216 per year maint. and \$3,600 per year leasing
Source: Contract Bid

c. Net Terminal Value

d. Other Considerations (include discount factor(s) and justification) Escalation at 4.4% based on

OSD Inflation Factors, 6 Jan 84

11. Name and Title of Principal Action Officer:

- (\$000)

B. Uniform Annual Cost:

<u>Constant Dollar</u>	<u>Inflated Dollar</u>
1960	1960
1961	1961
1962	1962
1963	1963
1964	1964
1965	1965
1966	1966
1967	1967
1968	1968
1969	1969
1970	1970
1971	1971
1972	1972
1973	1973
1974	1974
1975	1975
1976	1976
1977	1977
1978	1978
1979	1979
1980	1980
1981	1981
1982	1982
1983	1983
1984	1984
1985	1985
1986	1986
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1992	1992
1993	1993
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2003	2003
2004	2004
2005	2005
2006	2006
2007	2007
2008	2008
2009	2009
2010	2010
2011	2011
2012	2012
2013	2013
2014	2014
2015	2015
2016	2016
2017	2017
2018	2018
2019	2019
2020	2020
2021	2021
2022	2022
2023	2023
2024	2024
2025	2025
2026	2026
2027	2027
2028	2028
2029	2029
2030	2030
2031	2031
2032	2032
2033	2033
2034	2034
2035	2035
2036	2036
2037	2037
2038	2038
2039	2039
2040	2040
2041	2041
2042	2042
2043	2043
2044	2044
2045	2045
2046	2046
2047	2047
2048	2048
2049	2049
2050	2050
2051	2051
2052	2052
2053	2053
2054	2054
2055	2055
2056	2056
2057	2057
2058	2058
2059	2059
2060	2060
2061	2061
2062	2062
2063	2063
2064	2064
2065	2065
2066	2066
2067	2067
2068	2068
2069	2069
2070	2070
2071	2071
2072	2072
2073	2073
2074	2074
2075	2075
2076	2076
2077	2077
2078	2078
2079	2079
2080	2080
2081	2081
2082	2082
2083	2083
2084	2084
2085	2085
2086	2086
2087	2087
2088	2088
2089	2089
2090	2090
2091	2091
2092	2092
2093	2093
2094	2094
2095	2095
2096	2096
2097	2097
2098	2098
2099	2099
2100	2100

- | | | | | |
|---|----|--------------|----|--------------|
| a. Without terminal value | \$ | <u>3816</u> | \$ | <u>3954</u> |
| b. With terminal value | \$ | _____ | \$ | _____ |
| Discounted total cost without terminal value: | \$ | _____ | \$ | _____ |
| c. Less discounted terminal value | \$ | _____ | \$ | _____ |
| d. Not discounted total cost | \$ | <u>39101</u> | \$ | <u>38582</u> |

10. Source/Derivation of Cost Estimates (use as much space as required):

- #### **g. Nonrecurring Costs:**

- (1) Research & Development N/A
(2) Investment N/A

- b. Recurring Costs \$216 per year maint, and \$3,600 per year leasing
Source: Contract Bid

- ### c. Net Terminal Value

- 4. Other Considerations (include discount factor(s) and justification)** Escalation at 4.4% based on

11. Name and Title of Principal Action Officers:

OSD Inflation Factors, 6 Jan 8

1. Submitting DOD Component: HQ AAC/DE
2. Date of Submission: (REVISED) 17 Aug 84
3. Project Title: COOL HOME
4. Description of Project Objective: To provide Military Family Housing for Eielson AFB, AK
5. Alternative: Build/Lease Housing - Private developer builds housing to lease to USAF
6. Economic Life: 40 Years
7. Program/Project Costs: (\$000)

a. Project year	b. Nonrecurring Costs				c. Recurring Costs		d. Annual Costs		e. Discount factor	f. Discounted Annual Cost (d x e)	
	(1) Constant dollar		(2) Inflated dollar		(3) Constant dollar	(4) Inflated dollar	(1) + (3) Constant dollar	(2) + (4) Inflated dollar		Constant dollar	Inflated dollar
	R&D	Invest- ment	R&D	Invest- ment							
1986					3816	3816	3816	3816	.909	3468	3468
1987					3816	3826	3816	3826	.826	3152	3160
1988					3816	3835	3816	3835	.751	2866	2881
1989					3816	3846	3816	3846	.683	2607	2627
1990					3816	3857	3816	3857	.621	2370	2395
1991					3816	3868	3816	3868	.564	2152	2181
1992					3816	3880	3816	3880	.513	1958	1991
1993					3816	3892	3816	3892	.467	1782	1871
1994					3816	3905	3816	3905	.424	1618	1655
1995					3816	3918	3816	3918	.386	1473	1513
1996					3816	3932	3816	3932	.351	1340	1381
1997					3816	3947	3816	3947	.319	1217	1259
1998					3816	3962	3816	3962	.290	1107	1149
1999					3816	3978	3816	3978	.263	1004	1046
2000					3816	3995	3816	3995	.239	912	954
2001					3816	4012	3816	4012	.218	832	875
2002					3816	4030	3816	4030	.198	756	798
2003					3816	4049	3816	4049	.180	687	729
2004					3816	4069	3816	4069	.164	625	667
2005					3816	4089	3816	4089	.149	568	609
2006					3816	4111	3816	4111	.135	515	555
2007					3816	4134	3816	4134	.123	470	509
2008					3816	4157	3816	4157	.112	427	465
2009					3816	4181	3816	4181	.102	389	426
2010					3816	4207	3816	4207	.092	351	387
2011					3816	4234	3816	4234	.084	320	355
2012					3816	4262	3816	4262	.076	290	324
2013					3816	4291	3816	4291	.069	263	296
2014					3816	4321	3816	4321	.063	241	272
2015					3816	4353	3816	4353	.057	217	248
2016					3816	4386	3816	4386	.052	198	228
2017					3816	4421	3816	4421	.047	179	208
2018					3816	4457	3816	4457	.043	164	192
2019					3816	4494	3816	4494	.039	148	175
2020					3816	4534	3816	4534	.036	138	164
2021					3816	4575	3816	4575	.032	122	146
2022					3816	4618	3816	4618	.029	110	134
2023					3816	4663	3816	4663	.027	103	126
2024					3816	4709	3816	4709	.024	91	113
2025					3816	4758	3816	4758	.022	84	104
TOTAL					152640	166572	152640	166572	9.779	37314 + 2121 39435	38582
TAX IMPLICATION AT 10% DISCOUNT RATE											

8. Uniform Annual Cost:
- | | Constant Dollar | Inflated Dollar |
|--|-----------------|-----------------|
| a. Without terminal value | \$ 3816 | \$ 3954 |
| b. With terminal value | \$ | \$ |
| 9. Discounted total cost without terminal value: | \$ | \$ |
| a. Less discounted terminal value | \$ | \$ |
| b. Net discounted total cost | \$ 39435 | \$ 38582 |

10. Source/Derivation of Cost Estimates (use as much space as required):

a. Nonrecurring Costs:

- (1) Research & Development N/A
(2) Investment N/A

- b. Recurring Costs \$216 per year maint. and \$3,600 per year leasing
Source: Contract Bid

c. Net Terminal Value

- d. Other Considerations (include discount factor(s) and justification) Escalation at 4.4% based on
OSD Inflation Factors, 6 Jan 84

11. Name and Title of Principal Action Officer:

1. Submitting DOD Component: HQ AAC/DE
2. Date of Submission (REVISED) 17 Aug 84
3. Project Title: COOL HOME
4. Description of Project Objective: To provide Military Family Housing for Eielson AFB, AK
5. Alternative: Build/Lease Housing - Private developer builds housing to lease to USAF
6. Economic Life: 40 Years
7. Program/Project Costs: (\$000)

a. Project year	b. Nonrecurring Costs				c. Recurring Costs		d. Annual Costs		e. Discount factor	f. Discounted Annual Cost (d x e)	
	(1) Constant dollar		(2) Inflated dollar		(3) Constant dollar	(4) Inflated dollar	(1) + (3) Constant dollar	(2) + (4) Inflated dollar		Constant dollar	Inflated dollar
	R&D	Invest- ment	R&D	Invest- ment							
1986					3816	3816	3816	3816	.909	3468	3468
1987					3816	3826	3816	3826	.826	3152	3160
1988					3816	3835	3816	3835	.751	2866	2881
1989					3816	3846	3816	3846	.683	2607	2627
1990					3816	3857	3816	3857	.621	2370	2395
1991					3816	3868	3816	3868	.564	2152	2181
1992					3816	3880	3816	3880	.513	1958	1991
1993					3816	3892	3816	3892	.467	1782	1871
1994					3816	3905	3816	3905	.424	1618	1655
1995					3816	3918	3816	3918	.386	1473	1513
1996					3816	3932	3816	3932	.351	1340	1381
1997					3816	3947	3816	3947	.319	1217	1259
1998					3816	3962	3816	3962	.290	1107	1149
1999					3816	3978	3816	3978	.263	1004	1046
2000					3816	3995	3816	3995	.239	912	954
2001					3816	4012	3816	4012	.218	832	875
2002					3816	4030	3816	4030	.198	756	798
2003					3816	4049	3816	4049	.180	687	729
2004					3816	4069	3816	4069	.164	625	667
2005					3816	4089	3816	4089	.149	568	609
2006					3816	4111	3816	4111	.135	515	555
2007					3816	4134	3816	4134	.123	470	509
2008					3816	4157	3816	4157	.112	427	465
2009					3816	4181	3816	4181	.102	389	426
2010					3816	4207	3816	4207	.092	351	387
2011					3816	4234	3816	4234	.084	320	355
2012					3816	4262	3816	4262	.076	290	324
2013					3816	4291	3816	4291	.069	263	296
2014					3816	4321	3816	4321	.063	241	272
2015					3816	4353	3816	4353	.057	217	248
2016					3816	4386	3816	4386	.052	198	228
2017					3816	4421	3816	4421	.047	179	208
2018					3816	4457	3816	4457	.043	164	192
2019					3816	4494	3816	4494	.039	148	175
2020					3816	4534	3816	4534	.036	138	164
2021					3816	4575	3816	4575	.032	122	146
2022					3816	4618	3816	4618	.029	110	134
2023					3816	4663	3816	4663	.027	103	126
2024					3816	4709	3816	4709	.024	91	113
2025					3816	4758	3816	4758	.022	84	104
TOTAL					52640	166572	52640	166572	9.779	37314 + 2400	38582
										39714	

8. Uniform Annual Cost:
- | | Constant Dollar | Inflated Dollar |
|--|-----------------|-----------------|
| a. Without terminal value | \$ 3816 | \$ 3954 |
| b. With terminal value | \$ | \$ |
| 9. Discounted total cost without terminal value: | \$ | \$ |
| a. Less discounted terminal value | \$ | \$ |
| b. Net discounted total cost | \$ 39714 | \$ 38582 |
10. Source/Derivation of Cost Estimates (use as much space as required):
- a. Nonrecurring Costs:
 - (1) Research & Development N/A
 - (2) Investment N/A
 - b. Recurring Costs \$216 per year maint. and \$3,600 per year leasing
Source: Contract Bid
 - c. Net Terminal Value
 - d. Other Considerations (Include discount factor(s) and justification. Escalation at 4.4% based on

Appendix IV

Summary of COOL HOME Build/Lease Cost Savings

(In Constant Dollars)

(\$000)

1. MCP Costs based on 20 years of 40 year life	43,586
Build/Lease proposal, 20 years	32,495
20 year savings	<u>\$11,091</u>
2. MCP costs based on 20 years of 40 year life	43,586
Build/Lease with Tax impact, 7% Discount Rate, 20 years	34,282
20 year savings	<u>\$ 9,304</u>
3. MCP costs based on 20 years of 40 year life	43,586
Build/Lease with Tax impact, 10% Discount Rate, 20 years	34,616
20 year savings	<u>\$ 8,970</u>
4. MCP costs base on 20 years of 40 year life	43,586
Build/Lease with Tax impact, 15% Discount Rate, 20 years	34,895
20 year savings	<u>\$ 8,691</u>
5. MCP costs based on 40 year life	47,780
Build/Lease with 40 year leasing	37,314
40 year savings	<u>\$10,466</u>
6. MCP costs based on 40 year life	47,780
Build/Lease with Tax impact, 7% Discount Rate, 40 year	39,101
40 year savings	<u>\$ 8,679</u>
7. MCP cost based on 40 year life	47,780
Build/Lease with Tax impact, 10 % Discount Rate, 40 year	39,435
40 year savings	<u>\$ 8,345</u>
8. MCP costs based on 40 year life	47,780
Build/Lease with Tax impact, 15% Discount Rate, 40 year	39,714
40 year savings	<u>\$ 8,066</u>

**ECONOMIC
ANALYSIS
FOR
USAF
FAMILY HOUSING
HANSKOM AFB
MASSACHUSETTS**

9 APRIL 1985

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I. EXECUTIVE SUMMARY

A. The Decision Objective

The objective of this study is to determine if a proposed Section 801 military housing lease would be a more economical means of providing adequate housing for 163 military families at Hanscom AFB, Massachusetts, as compared to traditional Air Force constructed and operated family housing units.

B. Background

Section 801 of the Military Construction Authorization Act of 1984 and amendments thereto authorized several pilot programs to determine the cost effectiveness of a lease program to obtain additional housing facilities. If approved by Congress, some leased housing facilities would be available for beneficial occupancy in FY 86, with all remaining units becoming available in FY 87.

Major provisions set forth in this program are as follows:

- Occupants would forfeit Basic Allowances for Quarters (BAQ) and Variable Housing Allowances (VHA) in return for assigned quarters.
- The government would pay all rent, utilities, and administrative costs.
- The program cannot be applied to existing housing.
- The new housing units are required to be constructed at least to minimum DOD specification.
- Upon termination of the lease agreement, the government will have the right of first refusal to acquire all right, title, and interest in the leased house facilities.
- The lease may not exceed 20 years.
- A validated deficit in military housing must exist in the general area.
- The new housing units may be built on private or government owned land.

Survey of 44 local communities indicates that new housing construction has come to a virtual standstill. This situation has been prompted by zoning restrictions which communities are not likely to change. Existing housing is well-built but extremely expensive. The average home available to the military family costs between \$130,000 and \$250,000. The extremely high occupancy rate of housing plus the preponderance of high-tech industries in the Hanscom area, drives a demand that keeps escalating these costs (24% in the last year, ref Boston Globe dated 12 Feb 85). In order to find suitable housing, many families have been driven to locations more than one hour commuting distance from Hanscom AFB.

The median cost for a 2 bedroom junior enlisted rental dwelling, based upon listings available in the Housing Referral Office, is \$550/month, exclusive of utilities. The BAQ/VHA reimbursement for this family amounts to \$493.98 (E-4) which nets a monthly loss of approximately \$56. Assuming utility costs of \$150/month, this family has a yearly shortfall of \$2472 (\$206/month). A three bedroom house for a junior company grade officer averages \$800/month versus \$586.99 BAQ/VHA. Yearly loss, including utilities, is \$4,356 (\$363.00/month). A four bedroom accommodation for a senior officer averages \$1,120/month in rent.

In 1983, the neighboring 44 communities were asked for their support to construction of Military Family Housing on Hanscom AFB. They unanimously approved the proposal. Mayors and Chambers of Commerce also fully agreed that they could not adequately house Hanscom's military population, based upon housing availability projections, anytime in the foreseeable future.

Thus the only viable alternative is the construction of Military Family Housing at Hanscom AFB. This analysis will show that the best means to acquire this housing is through the build-to-lease alternative.

C. Major Assumptions

- 1) That the Air Force will have a continuing need for housing at Hanscom AFB for at least 20 years (the term of the 801 lease).
- 2) That the rent to satisfy the lease will be appropriated for that purpose by Congress on an annual basis.
- 3) That the owner/developer of the 801 Housing will retain title to the improvements for the 20 year lease term.
- 4) That maintenance and repair costs in the Military Family Housing (MFH) alternative will experience both real and inflationary increases based on the age of the units, while the 801 housing maintenance rent will experience only an inflationary increase based on its tie to economic index provision in the contract.
- 5) That the construction contract for the Government construction alternative would be awarded on 1 October 1985 and would require delivery of 50 percent of the units on 1 October 1986 with 25 percent to be delivered on 1 January 1987 and the remaining 25 percent on 1 April 1987.
- 6) That an agreement to lease in the 801 lease program would be signed on 1 June 1985 with 50 percent of the units to be delivered on 1 June 1986, an additional 25 percent delivered on 1 September 1986, and the remaining 25 percent delivered on 1 December 1986.

- 7) The actual housing occupancy will be as stated the Build to Lease Request for proposals. This occupancy is 52 percent, E-4 to E-6; 9 percent, E-7 to E-9; 34 percent, O-4 to O-5, and 5 percent O-6.
- 8) That the 801 lease alternative will be depreciated over a 40 year straight line for tax purposes.
- 9) The issue of real estate taxes is held not to be applicable to this project has it is to be constructed on Air Force property.
- 10) That all costs over the 21 year analysis period will be discounted to a present value at a rate of 12 percent, yielding two numbers which allow a meaningful economic comparison of the two alternatives.
- 11) Impact aid to the local community under these alternatives are deemed to be equal since the housing project is based on construction on government property in either alternative.

D. Alternatives Considered

Two alternatives for providing the needed housing were considered. They were:

1. Military Family Housing (MFH) Alternative - This alternative involves construction of new family housing through the MCP program. The required units would be constructed over an eighteen month period (FY 86 and FY 87), and operated and maintained by the Government for at least a period equal to the term of the 801 lease. These units would be built on Government-owned land on Hanscom AFB.
2. 801 Lease Alternative - This alternative involves the leasing of family housing units for 20 years by the Air Force. These units would be leased from a private developer, who would construct them to at least the DOD minimum specification. These units would be constructed on Government-owned land on Hanscom AFB.

E. Methodology

Investigations were made to determine the expense elements which would apply to the two alternatives investigated. The development of expense element estimates is detailed in appendix A of this report. Computations were performed to estimate the present value of the stream of future expenditures required for the implementation of each alternative. Computer outputs were generated which display the project costs per year with estimated inflationary effects (current dollar analysis), present cost per year, and cumulative present cost per year. The total net cumulative costs were then compared to

identify the least costly alternative. The results were then tested for the effects created by changes in cost elements. This "sensitivity analysis" helped identify the importance of each variable in the final result.

F. Economic Analysis Results

Results of the Economic Analysis for this project are as follows:

<u>163 Unit Project</u>		
<u>Alternative</u>	<u>Present Worth Net Cost*</u>	<u>Average Annual Equivalent</u>
MFH On-base Construction	\$ 19,174,133	\$ 2,715,498
801 Lease	\$ 19,077,773	\$ 2,701,851

*Based on a 21 year period of analysis (1986-2006) and a 12 percent discount rate.

The analysis of costs indicates the use of the 801 Lease program to be the least costly and most economically feasible means of meeting an urgent need for military family quarters on Hanscom AFB.

G. Sensitivity Analysis Results

Five variables were tested for the impact created on the overall results of the analysis by changes in each variable. The construction costs of the MFH alternative construction is based on a large body of factual data and experience. Other items either were insensitive or possessed a low overall sensitivity. A detailed discussion of sensitivity is contained in paragraph II F-2.

H. Non-Monetary Factors

An economic analysis is, by definition, limited to consideration of economic or monetary factors. A project of this magnitude involves a number of factors which are beyond the scope of an economic analysis. Some nonmonetary factors identified include: (1) the desirability of having personnel located on the base for accessibility, (2) the possibility of obtaining funding for MCP construction given budget constraints, and (3) the availability of government-owned assets for other purposes, such as mobilization. The economic analysis is, therefore, only one element to be considered in the overall decision-making process.

I. Recommended Action

This economic analysis indicates that the 801 Housing Program is the least costly means of providing 163 units of housing for military personnel on Hanscom AFB. It is therefore recommended that the Air Force be authorized to enter into a Section 801 lease for these units.

II DETAILED SUMMARY

I. OBJECTIVE: The objective of this analysis is to determine the most cost effective method of meeting the Air Force family housing requirements at Hanscom AFB, Massachusetts.

II. BACKGROUND AND HOUSING REQUIREMENT: The existing housing at Hanscom AFB consists of 695 units, built between 1959 and 1968. The most recent Air Force Housing Survey (DD Form 1378 as of 30 Sep 83) shows a housing deficit of 163 units. Air Force manning documents show no significant change in Hanscom military manning in the foreseeable future.

The Air Force Electronic Systems Division (AFSC) performs a mission that relies heavily on professionals skilled in high-tech engineering. The low availability rate of housing, coupled with extremely high prices, has created an environment that adversely impacts assigned military personnel.

This project was developed in response to this urgent need for housing. The decision to pursue on-base construction under the Military Family Housing Build-To-Lease Program resulted from an extensive study of housing availability in the local area. The proposed project under Public Law 98-115, Section 801, would provide quarters for 163 military families in the most timely manner compared to other alternatives.

Survey of 44 local communities indicates that new housing construction has come to a virtual standstill. This situation has been prompted by zoning restrictions which communities are not likely to change. Existing housing is well-built, but extremely expensive. The average home available to the military family costs between \$130,00 and \$250,000. The extremely high occupancy rate of housing, plus the preponderance of high-tech industries in the Hanscom area, drives a demand that keeps escalating these costs (24% in the last year, ref article in the Boston Globe dated 12 Feb 85). In order to find suitable housing, many families have been driven to locations more than one hour commuting distance from Hanscom AFB.

The median cost for a 2 bedroom junior enlisted rental dwelling, based upon listings available in the Housing Referral Office is \$550/month, exclusive of utilities. The BAQ/VHA reimbursement for this family amounts to \$493.98 (E-4), which nets a monthly loss of approximately \$56. Assuming utility costs of \$150/month, this family has a yearly shortfall of \$2472 (\$206/month). A three bedroom house for a junior company grade officer averages \$800/month versus \$586.99 in BAQ/VHA. Yearly loss, including utilities, is \$4,356 (\$363.00/month). A four bedroom accommodation for a senior officer averages \$1,120/month in rent.

In 1983 the neighboring 44 communities were asked for their support to construct Military Family Housing on Hanscom AFB. They unanimously approved the proposal. Mayors and Chambers of Commerce also fully agreed that they could not adequately house Hanscom military population, based upon housing availability projections, anytime in the foreseeable future.

Thus the only viable alternative is the construction of Military Family Housing at Hanscom AFB. This analysis will show that the best means to acquire this housing is through the build-to-lease alternative.

C. Assumptions

- 1) That the Air Force will have a continuing need for housing at Hanscom for at least 20 years (the term of the lease).
- 2) That the rent to satisfy the lease will be appropriated for that purpose by Congress on an annual basis.
- 3) That new construction will have a 40 year life.
- 4) That inflation indices promulgated by the Office of Management and Budget through the Office of the Secretary of Defense (OMB/OSD indices) represent an accurate projection of inflation through the twenty year project life.
- 5) That the owner/developer of the 801 Housing will retain title to improvements of the project for the 20 year lease term.
- 6) That personnel will be paid a housing allowance until these units become available.
- 7) That installed appliances have an average life of 10 years and will require replacement once during the life of the project.
- 8) That maintenance and repair costs in the Military Family Housing (MFH) alternative will experience both real and inflationary increases based on the age of the units, while the 801 lease alternative will experience only an inflationary increase based on its tie to the economic indicator provision of the contract.
- 9) That the construction contract for the Government construction alternative would be awarded on 1 October 1985, and would require delivery of 50% of the units on 1 October 1986, with the remaining 25% to be delivered on 1 January 1987 and the remaining 25% on 1 April 1987.
- 10) That an agreement to lease in the 801 lease program would be signed on 1 June 1985 and require 50% of the units to be delivered on 1 June 1986, an additional 25% delivered on 1 September 1986, and the remaining 25% delivered on 1 December 1986.

- 12) The actual housing occupancy will be as stated in the Build to Lease Request for proposals. In that study it was assumed that the occupancy would be 52% E-4 to E-6, 9% E-7 to E-9, 34% O-4 to O-5 and 5% O-6.
- 13) That the 801 lease alternative will be depreciated over a 40 year straight line for tax purposes.
- 14) The issue of real estate taxes is held not to be applicable for this project. Consideration based on the fact that both alternatives were to be built on-base.
- 15) That all costs over the 21 year analysis period will be discounted to a present value at a rate of 12%, yielding two numbers which will allow a meaningful comparison of the two alternatives.
- 16) Impact aid to the local community under these alternatives are deemed to be equal since the each alternative assumes construction on Air Force property.
- 17) That the Government construction alternative would require payments equal to 75% of the total construction cost in the first year of construction with the remaining 25% in the second year of construction.
- 18) That Accelerated Cost Recovery System (ACRS) is not applicable to this project. (See Annex 1)

D. General Cost Element Summary

1. Costs considered:

Table II-1 shows costs considered in the analysis.

TABLE II-1

	MCP Alternative	801 Lease Alternative
A. Construction Cost	X	0
B. Maintenance and Repair	X	X
C. Real Estate Tax	0	0
D. Equipment	X	
E. Insurance	X	
F. Housing allowance	X	X
G. Residual Value	X	0
H. Rent		X
I. Utilities	W	W

X = Cost included

0 = Cost calculated, but only used to estimate other costs.

W = "Washing" - equal in both alternatives

2. Cost Element Details

Details on the development of costs considered and their reason for inclusion or noninclusion are shown in Appendix A.

E. Methodology

The two alternatives were compared on the basis of net discounted present cost. In order to do this, all costs involved in each alternative were identified. Those considered approximately equivalent under each alternative were eliminated from consideration as "wash" costs. The remaining costs were converted to a total net present cost on the basis of current dollars (inflated at the OMB/OSD rates) and discounted at a rate of 12%. Use of this discount rate has been allowed by OMB, based on long-term Government bonds and assumes four percent inflation and eight percent cost of money.

A residual value, which represents the remaining value of the construction to the Government at the end of the analysis period, was then calculated and then deducted from the costs of the final year of the analysis period yielding a negative cost for that year. The discounting process then arrived at a net present value estimate.

The two estimates of net present cost were then compared to ascertain the least costly alternative. In addition, key variables were tested to find the amount of change required to affect the outcome of each variable in the outcome of the analysis. If reasonable changes in an estimated cost item would alter the ranking of the alternatives, the analysis is said to be "sensitive" to that variable.

This analysis covers a 21 year period as partial rent or construction costs will be charged in the year preceding final delivery of all units.

F. Summary of Results

1. Economic Analysis Results

These economic analyses were conducted using a computer aided modeling program. This program allows the user to specify a discount rate, an inflation index and values to be used in developing the analysis. The detailed results of this computer analysis are contained in Appendix B. This appendix contains: 1) a detailed MCP construction cost build-up for the project,

2) a chart showing a year-by-year comparison of the net cumulative discounted present cost to that year, 3) year by year tables of the costs of each alternative showing the annual cost in each area, the total annual cost, the discounted annual cost, and the cumulative net discounted cost, and 4) a graph showing the comparative cost for each alternative over the 21 year analysis period. Results are as follows:

163 Unit Project Analysis Results (Appendix B)

<u>Alternative</u>	<u>Present Worth Net Cost*</u>	<u>Average Annual Equivalent</u>
MCP On-base Construction	\$ 19,174,133	\$ 2,715,498
801 Lease	\$ 19,077,773	\$ 2,701,851

*Based on a 21 year period of analysis (1986-2006) and a 12 percent discount rate.

The analysis of costs indicates the use of the 801 Lease program to be the more economically feasible means of meeting an urgent need for military family housing on Hanscom AFB.

2. Sensitivity Analysis Results

The purpose of a sensitivity analysis is to test key variables in the analysis for the effect that a change in the variable would have on the final results of the whole analysis. Those variables in which a small change results in a reversal of alternative rankings are determined to be "sensitive." The more sensitive the variable, the more important it is that the information on which that cost is based be accurate and reliable. A sensitive variable which is based on assumptions and conjecture greatly weakens the overall reliability of the analysis.

In the case of this analysis, variables were tested for sensitivity. Those variables requiring a change of more than 100% plus or minus were considered insensitive. The results of this sensitivity analysis are presented in Table II-2.

Table II-2
Changes in Cost Elements to Rank
MCP Construction as Least Costly

<u>Cost Element</u>	<u>163 unit</u>
1) Construction Cost	- 0.54
2) M & R Cost	- 4.89
3) Insurance Cost	insensitive
4) Residual Value	+ 4.06
5) Housing Allowance	- 22.42

The item demonstrating the most sensitivity, construction cost, is based on a large body of factual data, and experience.

Detailed Cost Element Summary

I. Introduction

This appendix covers the derivation of cost items included in the preceding economic analyses. It also presents the rationale used in the inclusion or noninclusion of the cost elements in each alternative.

II. Military Family Housing (MFH) Military Construction ProgramA. Construction Cost

New construction costs were based on estimates developed by the Base Civil Engineer, Hanscom AFB, using the Tri-Service Family Housing Cost Model. It was assumed that the same number of housing units would be built on base in either alternative. The Average Net Square Foot (ANSF) per unit was calculated based on information obtained from the Request for Proposals for the project. The number of units was multiplied by this ANSF and then by a \$46 per square foot cost figure based on "Unit Costs, DOD Facilities" dated August, 1984. A project factor was developed by multiplying an Area Cost Factor by a project Size Factor by a Unit Size Factor. Project Size and Unit Size Factors are given by the model. The Area Cost Factor used was obtained from the "Material and Labor Cost Indexes" from OSD dated September, 1983. The project cost was then multiplied by standard five percent contingency and five percent supervision/ administration factors to obtain a final project cost. Detailed computations of these costs for each project are shown at the beginning of the appropriate project appendix.

Construction costs have been time-phased based on reasonable expectations of unit delivery and contract payment. In this case, the cost analysis assumes that approximately 50 percent of the units will be delivered on 1 October, 1986, with 25 percent delivered on 1 January, 1987, and 25 percent on 1 April 1987. This time phasing indicates that approximately 75 percent of contract costs will be payable in 1986 with the remaining 25 percent to be paid in 1987. No inflation was applied to this cost as it would be a contract price set at the time of award.

B. Land Cost

A land cost has not been included in either alternative. Although the AF land on Hanscom has a determinable value, the cost is common to both alternatives and therefore is not a factor for comparison.

C. Maintenance and Repair Costs

The following and repair costs are the sum of all costs associated with daily operations of these units. These figures include maintenance/repair to the structural buildings, grounds, and utility systems as well as services cost such as appliance repair, trash removal, grass mowing, snow removal, and refuse pickup.

These figures were established from an average of Air Force experience for units up to 40 years old in CONUS-wide northern tier locations. Furthermore, these figures were compared to those used in recent Army analyses and found to be below their rates. Therefore, it is felt that the Air Force maintenance figures represent a realistic estimate of the government's cost. No additional aging cost has been calculated since the Air Force data includes this factor.

163 Units

1987 - 82 units x 12 months x \$110.28/month maintenance =	\$108,515.52
1987 - 40 units x 9 months x \$110.28/month maintenance =	\$ 39,700.80
1987 - 41 units x 6 months x \$110.28/month maintenance =	\$ 27,128.80
	<u>\$175,345.12</u>
1988	
thru - 163 units x 12 months x \$110.28/month maintenance =	\$215,707.68
2006	say \$215,700

These average costs are assumed to begin at delivery of the units and are subject only to inflationary growth.

D. Equipment Costs

This cost category includes the cost of replacement of appliances in the family housing units. Replacement costs were based on an average estimated 10 year life of the appliances and estimated costs. Only refrigerator and range costs are included in this item as the remaining appliances are included in maintenance and repair costs as installed equipment.

Replacement costs were calculated as follows:

Refrigerator	\$380
Range	<u>575</u>
Total FY 84 Cost	\$955
Inflate to FY 86	<u>x 1.0826</u>
	\$1033.88
	say \$1034/unit

163 unit project

163 units X \$1034/unit = \$168,542 total replacement cost
(FY 86 cost basis)

E. Insurance Costs

The insurance cost element includes the inputed cost of liability insurance only. Structure replacement is covered under the Maintenance and Repair cost element. Estimates of these costs are based on estimates from commercial insurance sources. Using a \$500,000 limit, these sources estimate the cost of liability insurance at \$35 per unit. This figure was applied to the appropriate number of units and was time-phased in accordance with the

delivery of units specified under the construction cost element. This cost element was considered subject to inflationary growth only.

Costs were calculated as follows:

163 Unit Project

1986 - 0 units (under construction)	=	\$0
1987 - 82 units x \$35/unit/yr	=	\$2,870.00
1987 - 40 units x .75 yr x \$35/unit/yr	=	\$1,050.00
1987 - 41 units x .5 yr x \$35/unit/yr	=	\$717.50
		<u>\$4,637.50</u>

1988		
thru - 163 units x \$35/unit/yr	=	\$5,705
2006		

F. Housing Allowances

This cost element accounts for the fact that personnel who will occupy this housing will continue to live on the economy until delivery of the units. This cost was computed using the existing Basic Allowance for Quarters (BAQ) and Variable Housing Allowance (VHA) inflated to FY 86 dollars. Housing allowances were calculated as follows:

Grade	FY 85 BAQ	+	FY 85 VHA	=	FY 85 Housing Allowance	x	Inflation Factor	=	FY 86 Housing Allowance
E-4	259.50	+	234.48	=	493.98	x	1.044	=	515.72
E-5	300.30	+	241.71	=	542.01	x	1.044	=	565.86
E-6	337.80	+	242.59	=	580.39	x	1.044	=	605.93
E-7	372.60	+	288.71	=	661.31	x	1.044	=	690.41
E-8	400.50	+	282.40	=	682.90	x	1.044	=	712.95
E-9	429.90	+	302.43	=	732.33	x	1.044	=	764.55
O-4	504.90	+	341.16	=	846.06	x	1.044	=	883.29
O-5	552.30	+	341.74	=	894.04	x	1.044	=	933.38
O-6	\$599.40	+	\$332.03	=	\$931.43	x	1.044	=	\$972.41

The weighed average housing allowance per family per month was calculated using the project composition given in the Build-to-Lease Request for Proposals:

Grade	Number of Units	% of Total	x	FY 86 Housing Allowance Per Month	=	Average Monthly Allowance
E-4 thru E-6	85	52.15	x	\$562.50 (avg)	=	\$293.33
E-7 thru E-9	14	8.59	x	722.64 (avg)	=	62.07
O-4 thru O-5	55	33.74	x	908.33 (avg)	=	306.49
O-6	9	5.52	x	972.41	=	53.69
TOTAL	163	100.00				<u>\$715.58</u>

The number of months was determined by the delivery schedule outlined in the construction cost discussion. The October 1986 delivery of 50 percent of the units means that 100 percent of personnel would draw housing allowances during FY 86. Half of the personnel will draw housing for first three months of FY 87 and one quarter of personnel will draw housing for the second three months of FY 87.

1986	163 families x \$715.58 x 12 months =	\$1,399,674.50
1987	81 families x 715.58 x 3 months =	\$173,885.94
1988	41 families x 715.58 x 3 months =	\$88,016.34

FY 86 Cost = \$1,399,674.50
FY 87 Cost = \$261,902.28

These costs are considered subject to inflationary growth only during the time period estimated. It is noted that these costs are necessary for inclusion only because delivery schedules for units differs in the two alternatives.

G. Residual Value

This residual value element represents the value which the Government will retain in the property it owns outright at the end of the twenty year analysis period. This value was computed by use of the Building Decay-Obsolescence and Site Appreciation factors promulgated in Appendix B of OMB Circular A-104 dated 14 June 1972. Construction costs were inflated based on OMB/OSD indices to FY 2006 dollars prior to application of these factors:

163 Units

Project Cost	\$18,178,826
-Contingency & SIOH Costs	1,690,095
	<u>\$16,488,371</u>
-Onetime Site Safety Costs	88,371
	<u>\$16,400,000</u>
FY 86 Construction Cost	
x Inflation Factor to FY 2006	x 2,086
equals FY 2006 Cost	<u>\$34,210,400</u>
x Building Obsolescence Factor	x .709699
equals residual Value of	<u>\$24,279,087</u>
Improvements	

III. 801 Lease Alternative

A. Shelter Rent

This cost is taken directly from the selected proposal for each project. It will remain fixed for the twenty year term, but the developer is required to deliver the units in phases including delivery of a portion of the units prior to completion of construction and consequent execution of the lease. The current schedule calls for delivery of 50% of the units on 1 June 1986, another 25% on 1 September 1986, and the remaining 25% on 1 December 1986. Units accepted by the Government prior to execution of the lease document will be rented on an interim basis at 100% of the rent specified in the proposal.

Shelter rent was calculated as follows:

163 unit

1986 - 81 units x 4 month x an average \$1087.51 = \$356,703.28
40 units x 1 month x an average \$1087.51 = + 43,500.40
FY 86 Total \$400,203.68

1987 - 122 units x 2 month x an average \$1087.51 = \$265,352.44
163 units x 10 month x an average \$1087.51 = + 1,772,641.30
FY 87 Total \$2,037,993.74

1988 thru 2006 - 163 units for 12 months x 1087.51 = \$2,127,170

B. Maintenance Rent

This cost element is taken directly from the selected proposal and is intended to include the developer's cost to maintain and repair the project. This rent is to be increased or decreased at the beginning of each year after the first year of the lease by the increase or decrease of the Furnishings and Operation Index, Housing Group, as published by the Bureau of Labor statistics Consumer Price Index for the preceding twelve months. For the purpose of the economic analysis it is assumed that the OMB/OSD inflation indexes supplied will equate to changes in the stated index for the analysis period.

As in the Shelter rent element, this cost will be 100 percent of the proposed rent for those units delivered prior to final lease execution. These costs were calculated as follows:

163 Units

1986 - 82 units x 4 months x \$142.58 = \$46,766.24
40 units x 1 month x \$142.58 = \$5,703.20
FY 86 Total \$52,469.44

1987 - 122 units x 2 months x \$142.58 = \$34,789.52
163 units x 10 months x \$142.58 = \$232,405.40
FY 87 Total \$267,194.92

1988 through 2006 - 163 units x 12 months x \$142.58 = \$278,880

C. Housing Allowances

As in the MCP Alternative, it will be necessary to pay housing allowances to the personnel scheduled to occupy these quarters while they are awaiting completion of the units. The housing mix is the same as in the MCP Alternative and the same \$715.58 per family per month cost computed in II-F above used to estimate these costs. The delivery schedule for units will require 50 percent of the families to live on the economy for the first eight months of FY 86. Eighty-one families will draw this allowance for an additional three months in FY 86 and 41 families will draw housing allowances for the last month of FY 86 and two months of FY 87.

On this basis, costs were calculated as follows:

1986 - 163 families for 8 months x \$715.58/month =	\$933,116.32
81 families for 3 months x \$715.58/month =	\$173,885.94
41 families for 1 month x \$715.58/month =	\$29,338.78
Total (1986)	\$1,136,341.00

1987 - 41 families for 2 months x \$715.58/month =	\$58,677.56
--	-------------

D. Real Estate Taxes

The Request for Proposals on the project specifies that the Government will pay 100 percent of any general real estate taxes if levied. The decision to follow this avenue was based on clarifying developer's future costs. This project will be constructed on government land; all service functions (i.e., police, fire, utilities, and public works) are to be provided by the government, therefore, making no demand on the local community. At this time, there is no reason to believe local real estate taxes will be assessed and, therefore, are not an economic factor. This is further supported by the fact that if local taxes are levied, it is assumed school impact aid paid would be reduced accordingly.

FY 85 TRI-SERVICE FAMILY HOUSING COST MODEL

SERVICE AIR FORCE

LOCATION HANSCOM AFB, MASSACHUSETTS

BASELINE:

$$\begin{aligned} (163)(1316.3)(\$46.00) &= \$9,869,617. \\ (\text{No. Units})(\text{ANSF})(\$/\text{NSF}) &= \underline{5' \text{ Line Cost}} \end{aligned}$$

PROJECT FACTORS:

$$\begin{aligned} (1.09)(1.00)(0.97) &= 1.06. \\ (\text{ACF})(\text{Project Size})(\text{Unit Size}) &= \underline{\text{Project Factor}} \end{aligned}$$

HOUSING COST:

$$\begin{aligned} (\$9,869,617)(1.06) &= \$10,461,794. \\ (5' \text{ Line Cost})(\text{Project Factor}) &= \underline{\text{Total House Cost}} \end{aligned}$$

$$\begin{aligned} (\$3500)(1.09)(163) &= \$621,845. \\ (\text{Solar Unit Cost})(\text{ACF})(\text{Units}) &= \underline{\text{Total Project Solar Cost}} \end{aligned}$$

$$\begin{aligned} (\$7000)(1.09)(163) &= \$1,243,690. \\ (\text{Garage Unit Cost})(\text{ACF})(\text{Units}) &= \underline{\text{Total Garage Cost}} \end{aligned}$$

$$\begin{aligned} (\$10,461,794) + (\$621,845) + (\$1,243,690) / (163) &= \$75,628.00 \\ (\text{Housing Cost}) + (\text{Solar}) + (\text{Garages}) / (\text{No. Units}) &= \underline{\text{Average Unit Cost}} \end{aligned}$$

SUPPORTING COST:

\$/UNIT

Site preparation	\$ 4,600
Roads and paving	\$ 9,300
Utilities	\$ 6,800
Recreation	\$ 1,000
Landscaping	\$ 600
Special Construction	\$ 300

$$\begin{aligned} (\$22,600)(1.09)(163) &= \$4,015,342 \\ (\text{Total})(\text{ACF})(\text{No. Units}) &= \underline{\text{Support Cost}} \end{aligned}$$

MAINTENANCE/ADMINISTRATIVE FACILITY:

$$\begin{aligned} (2000)(\$67)(1.09) &= \$146,060 \\ (\text{GSF})(\$/\text{SF})(\text{ACF}) &= \underline{\text{Total Maint Fac}} \end{aligned}$$

SUMMARY:

$$\begin{aligned} &(\$10,461,794) + (\$621,845) + (\$1,243,690) \\ &(\text{Unit Cost}) + (\text{Solar Cost}) + (\text{Garage Cost}) \\ &+ (\$4,015,342) + (\$146,060) = \$16,488,731 \\ &+ (\text{Support Cost}) + (\text{Maintenance Facility}) = \underline{\text{Subtotal}} \end{aligned}$$

$$\begin{aligned} (\$16,488,731)(1.05)(1.05) &= \$18,178,826 \quad (18,200,000) \\ (\text{Subtotal})(\text{Contingency})(\text{SIOH}) &= \underline{\text{Project Cost}} \quad (\text{Round}) \end{aligned}$$

ANSF - Average net square feet/unit.

ACF - Area Cost Factor

PROJECT SIZE - (No. Units)

UNIT SIZE - (Net Square Feet)

1-49	units = 1.05
50-99	units = 1.02
100-199	units = 1.00
200-499	units = 0.98
500+	units = 0.95

950-1050	= 1.00
1051-1150	= 0.99
1151-1250	= 0.98
1251-1350	= 0.97
1351+	= 0.96

163 Unit Project

Calculation of Average Net Square Feet/Unit:

9	Four Bedroom Units @	1700 NSF	=	15,300 NSF
5	Four Bedroom Units @	1550 NSF	=	7,750 NSF
50	Three Bedroom Units @	1400 NSF	=	70,000 NSF
14	Three Bedroom Units @	1350 NSF	=	18,900 NSF
4	Four Bedroom Units @	1350 NSF	=	5,400 NSF
81	Three Bedroom Units @	1200 NSF	=	97,200 NSF
	Total			214,550 NSF

$$(214,550)/(163) = 1316.3$$

$$(Total\ NSF)/(No.\ Units) = (ANSF)$$

Supporting Cost: Support cost was determined from detailed estimates modeled for the selected site. The site includes approximately 6 acres of land containing a natural gas easement. No building may be located within 100 feet of the gas line. The cost of road crossings, site preparation and additional utility runs across this easement are included in both alternatives. The site also borders on streams which must be engineered in compliance with the Commonwealth of Massachusetts, Wetland Act. This cost is likewise included in both alternatives. This use of this land for Military Family Housing is as approved in the Hanscom AFB Base Comprehensive Plan (Base Master Plan). No other suitable land is available within the Hanscom AFB boundary.

Time-Phasing:

(1)	Total Construction Cost	X	75%	=	FY 86 Cost
	\$18,178,826	X	.75	=	\$13,634,120
(2)	Total Construction Cost	X	25	=	FY 87 Cost
	\$18,178,826	X	.25	=	\$ 4,544,706.50

(Note: Above Costs are before inflation calculations)

163 Unit Project

Summary of Calculation Results

Net Discounted Present Value

	<u>FY86</u>	<u>FY87</u>	<u>FY88</u>
MCP	14,995,330	19,615,304	19,798,211
Lease	1,502,150	3,511,704	5,344,441
	<u>FY89</u>	<u>FY90</u>	<u>FY91</u>
MCP	19,967,418	20,123,641	20,267,862
Lease	6,988,241	8,462,401	9,784,581
	<u>FY92</u>	<u>FY93</u>	<u>FY94</u>
MCP	20,401,008	20,523,930	20,637,416
Lease	10,970,613	12,034,660	12,989,406
	<u>FY95</u>	<u>FY96</u>	<u>FY97</u>
MCP	20,742,190	20,912,552	21,001,851
Lease	13,846,201	14,615,201	15,305,505
	<u>FY98</u>	<u>FY99</u>	<u>FY2000</u>
MCP	21,084,294	21,160,407	21,230,677
Lease	15,925,263	16,481,771	16,981,565
	<u>FY01</u>	<u>FY02</u>	<u>FY03</u>
MCP	21,295,550	21,355,442	21,410,733
Lease	17,430,496	17,833,808	18,196,195
	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>
MCP	21,461,778	21,508,904	19,174,133
Lease	18,521,869	18,814,602	19,077,773

ICP ALTERNATIVE PROGRAM/PROJECT COSTS

YEAR	CONSTRUCTION	MAINTENANCE & REPAIR	INSUR	HOUSING ALLOWANCE	RESIDUAL VALUE	TOTAL DISCOUNTED ANNUAL PRESENT OUTLAYS VALUE	CUMULATIVE NET DISC P. V.
1986	14469891	0	0	1399675	0	15869566	14995330
1987	5009630	185077	4895	276438	0	5476039	19615304
1988	0	236558	6257	0	0	242815	19798211
1989	0	245100	6483	0	0	251583	19967418
1990	0	253448	6703	0	0	260151	20123641
1991	0	262054	6931	0	0	268985	20267862
1992	0	270962	7167	0	0	278129	20401008
1993	0	280173	7410	0	0	287583	20523930
1994	0	289707	7662	0	0	297369	20742190
1995	0	299564	7923	0	0	307487	20912552
1996	0	551772	8192	0	0	559964	21001851
1997	0	320271	8471	0	0	328742	21084294
1998	0	331164	8759	0	0	339923	21160407
1999	0	342424	9057	0	0	351480	21230677
2000	0	354072	9365	0	0	363436	21295550
2001	0	366108	9683	0	0	375791	21355442
2002	0	378554	10012	0	0	388566	21410733
2003	0	391409	10352	0	0	401762	21461778
2004	0	404718	10704	0	0	415422	21508904
2005	0	418480	11068	0	0	429548	21574133
2006	0	432716	11445	0	-24279087	-23834926	

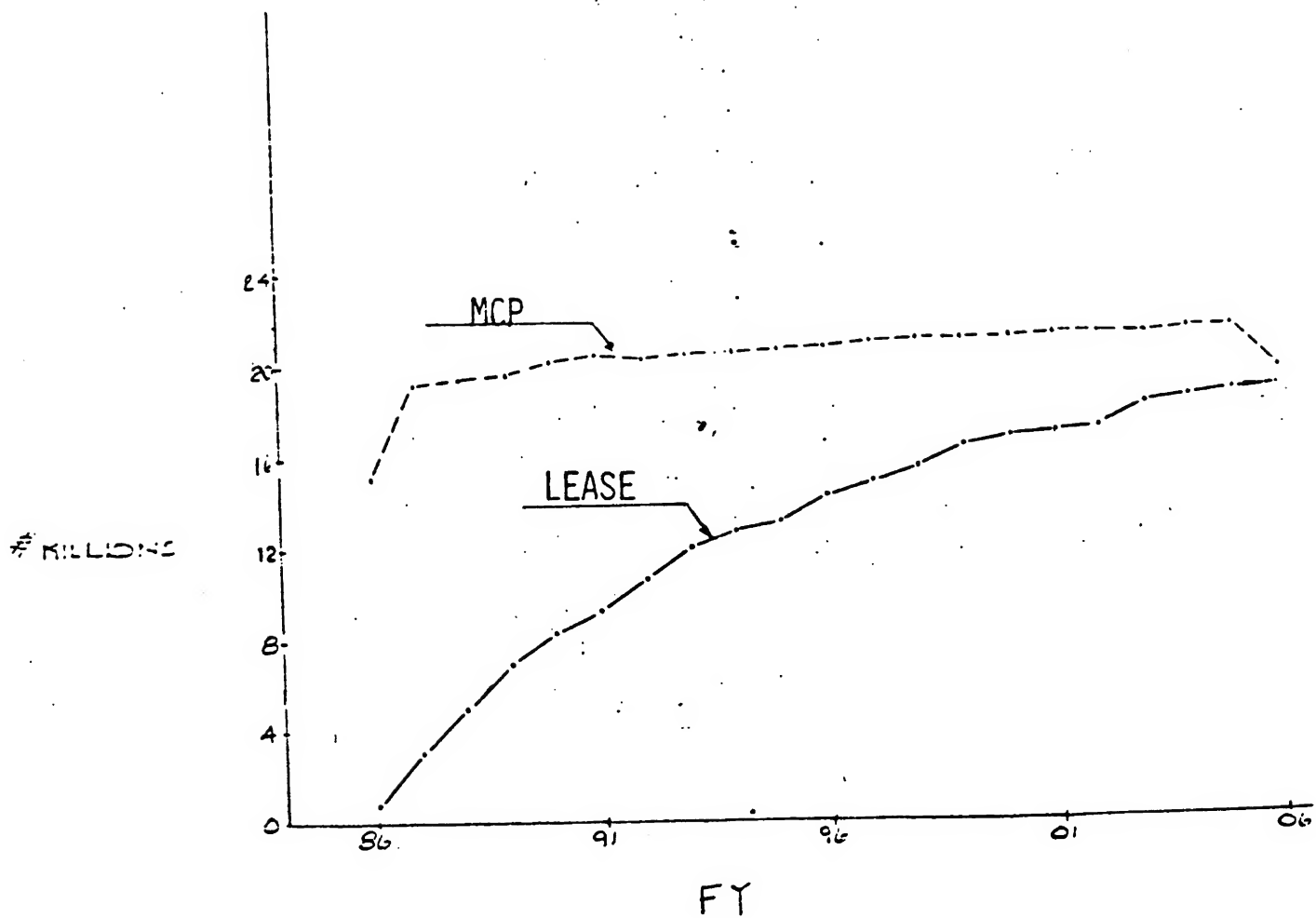
UNIFORM ANNUAL EQUIVALENT = 2715498 (12.00% DISCOUNT RATE, 21 YEARS)

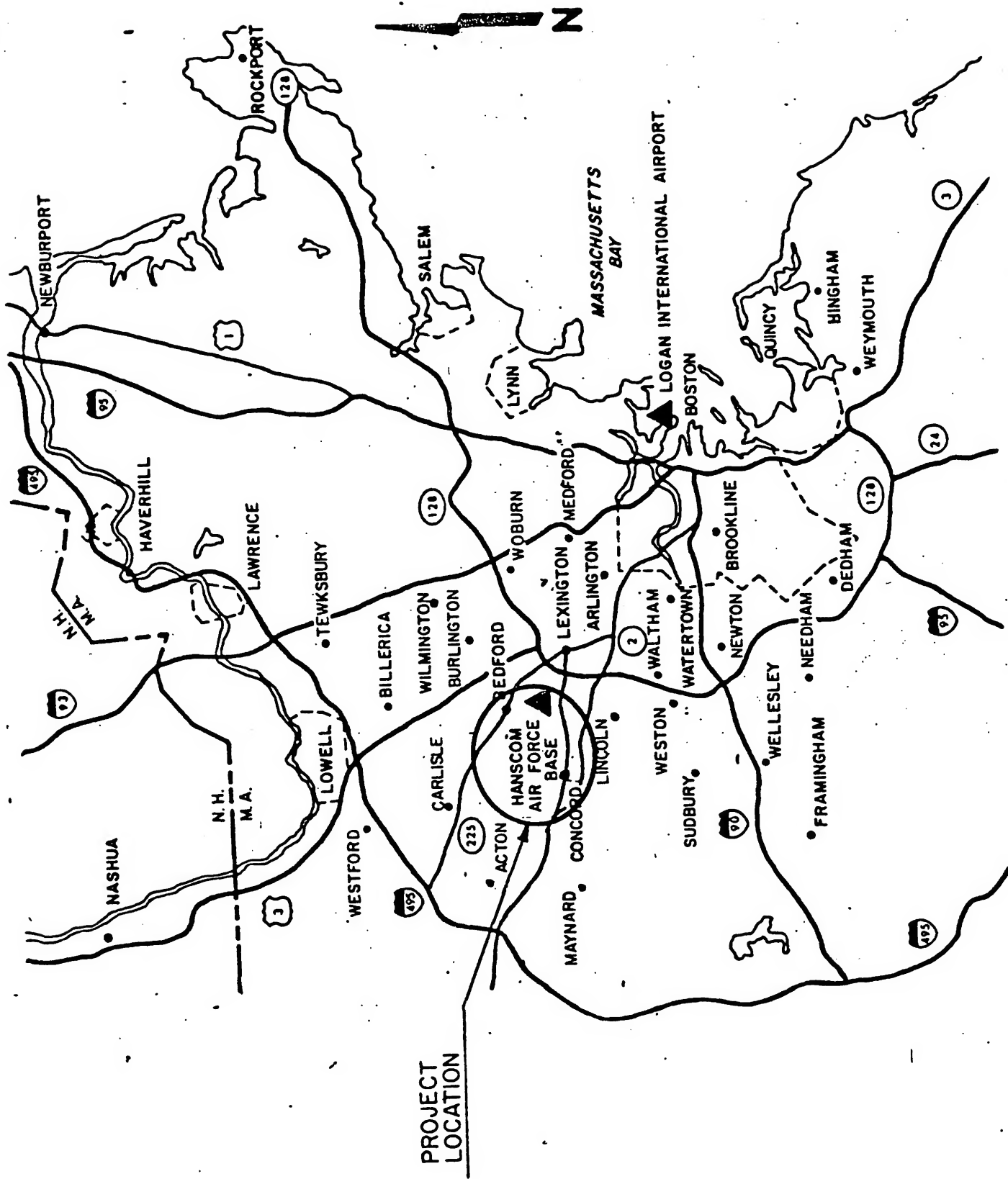
BTL ALTERNATIVE
PROGRAM/PROJECT COSTS

YEAR	SHELTER MAINTENANCE		HOUSING ALLOWANCE	TOTAL DISCOUNTED CUMULATIVE		
	RENT	RENT ALLOWANCE		ANNUAL OUTLAYS	PRESENT VALUE	NET DISC P. V.
1986	400204	53182	1136341	1589727	1502150	1502150
1987	2037994	282018	61905	2381917	2009554	3511704
1988	2127170	305848	0	2433018	1832737	5344441
1989	2127170	316891	0	2444061	1643800	6988241
1990	2127170	327684	0	2454854	1474160	8462401
1991	2127170	338811	0	2465981	1322180	9784581
1992	2127170	350329	0	2477499	1186032	10970613
1993	2127170	362237	0	2489407	1064047	12034660
1994	2127170	374564	0	2501734	954746	12989406
1995	2127170	387309	0	2514479	856795	13846201
1996	2127170	400472	0	2527642	769000	14615201
1997	2127170	414081	0	2541251	690304	15305505
1998	2127170	428164	0	2555334	619758	15925263
1999	2127170	442722	0	2569892	556508	16481771
2000	2127170	457782	0	2584952	499794	16981565
2001	2127170	473343	0	2600513	448931	17430496
2002	2127170	489434	0	2616604	403312	17833808
2003	2127170	506056	0	2633226	362387	18196195
2004	2127170	523263	0	2650433	325674	18521869
2005	2127170	541055	0	2668225	292733	18814602
2006	2127170	559461	0	2686631	263171	19077773

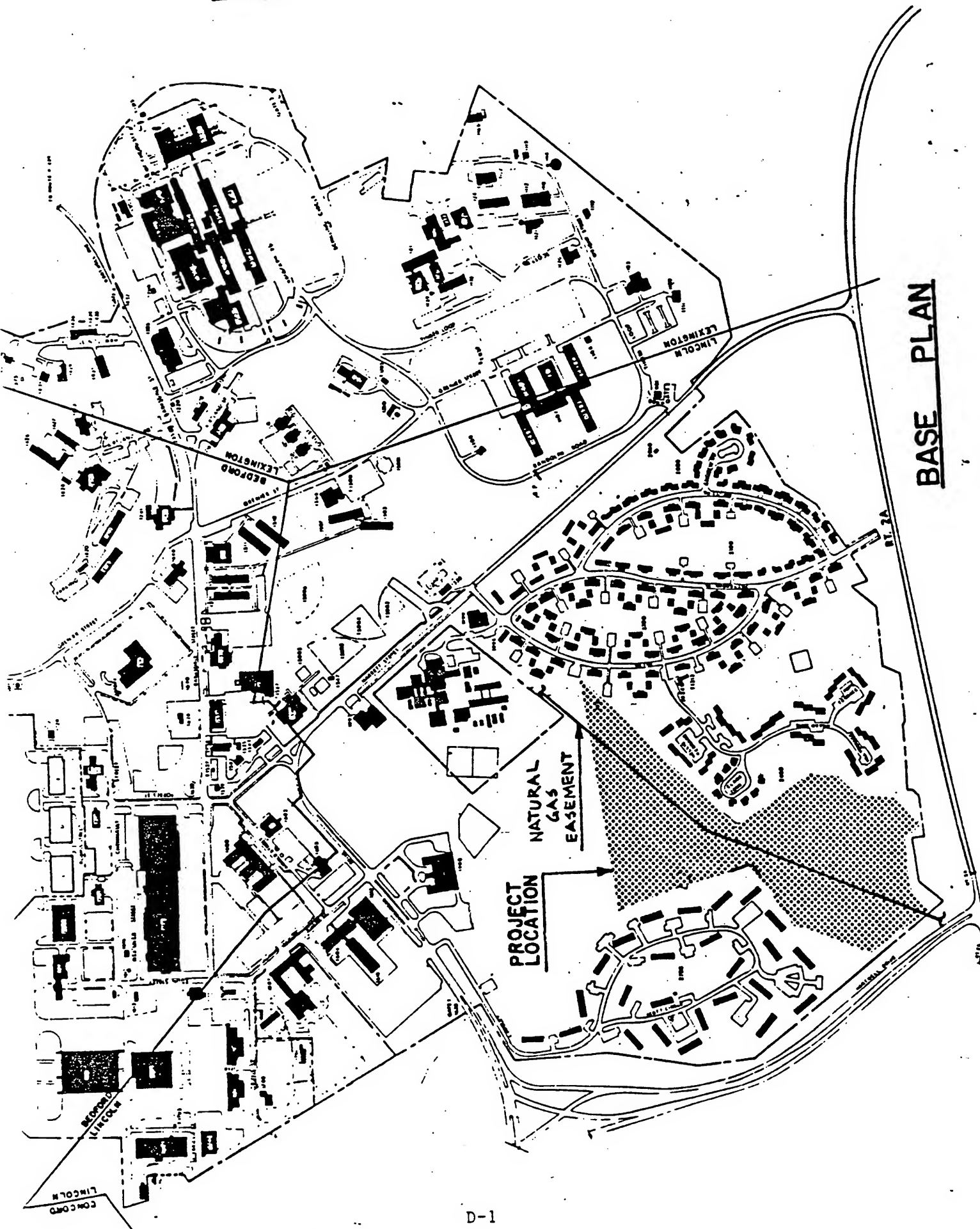
UNIFORM ANNUAL EQUIVALENT = 2701851 (12.00% DISCOUNT RATE, 21 YEARS)

163 UNIT
NET DISCOUNT PRESENT VALUE





VICINITY MAP



BASE PLAN



DEPARTMENT OF THE AIR FORCE
WASHINGTON 20330

OFFICE OF THE GENERAL COUNSEL

May 1, 1985

MEMORANDUM FOR AF/LEEH

SUBJECT: Application of ACRS to Hanscom Build/Lease Agreement

You have asked whether the economic analysis for the Hanscom build lease should use, as the basis for tax expenditure calculations, 40 year straight line depreciation or 18 year cost recovery under Accelerated Cost Recovery System (ACRS).

The Tax Reform Act of 1984, which is Division A of the Deficit Reduction Act of 1984, P.L. 98-369, made major changes in the tax laws regarding leases to Federal agencies.

Basically, the new rules require that real property (including buildings on leased land) leased to the Government must be depreciated on a straight-line basis over the greater of 40 years, or 125% of the duration of the term, if

1. the leased property was financed with tax free means, such as municipal bonds; or
2. there is a fixed or determinable purchase price option for the Government at any time during or at the ending of the lease; or
3. the lease term is longer than twenty years, or
4. the lease is the result of a sale of the leased property by the governmental entity and an immediate leaseback.

The first and fourth criteria do not apply to this transaction. The second criteria also is not applicable because the purchase price option is indeterminable, or at best at fair market value. Therefore, the only question is whether the lease would be treated as longer than 20 years. The 20 years is not itself flexible; a lease found to be for 20 years and a day is sufficient to disqualify the premises from ACRS. The "lease term" includes successive leases of the same property and options to renew, except options where the rent is fair market value at the time of renewal.

The legislative history of the Tax Reform Act of 1984 suggests that "lease term" is not to be determined exclusively by the lease provisions. The Conference report on Section 31 of the Deficit Reduction Act, H. Rep. No. 811, 98th Cong., 2d Sess at 788 (1984), states that "the length of the lease term is also to be determined under all the facts and circumstances," and refers with approval to the rule in Hokanson v. C.I.R., 730 F.2d 1245 (9th Cir. 1984). The Hokanson rule is essentially that the length of a lease term is calculated on the basis of the realistic expectations (intent) of the parties at the time the lease was entered into. The report states further: "Conferees intend that the Hokanson rule and similar rules take precedence over the rule regarding fair rental renewal options with respect to real property so that, under all the facts and circumstances, the terms of a fair rental value renewal option may be

treated as a part of the original lease term." Id. The report also states that "successive leases which are part of the same transaction . . . with respect to the same property . . . are to be treated as one lease." Id.

In Hokanson, trucks were leased to a cooperative under a master lease for an indefinite period. The lease was cancellable by either party each January on 30 days' notice, but there was no right (or requirement) to renew. Thus, without cancellation, the lease continued. Section 38 (Internal Revenue Code) denied investment tax credit to the lessor of personal property where the lease term was more than one half of the useful life. Useful life of the trucks was eight years. The issue, therefore, was whether the lease was for less than four years. The court, holding that the "term" of the lease was determined by intent of the parties at the outset, concluded on the basis of the record that the intent was to lease for the useful life of the trucks. Mr. Hokanson, the lessor, had moved from Texas to Oregon and taken up employment with lessee as its transportation manager, suggesting a permanent transaction. Cancellation of the leases would have required the lessee to go back to commercial trucking, dissatisfaction with which had been the reason for the lease transaction. A bank official testified that he believed the parties intended an indefinite lease. The investment tax credit was denied, since Mr. Hokanson could not show the lease was for less than 4 years. The trial court characterized the transaction as "periodic examinations of a continuing and indefinite lease," rather than annual renegotiations of one-year leases. Id. at 1250.

Looking at the Hanscom lease in light of Hokanson and the Conference report, we believe that the lease term would be regarded by IRS as exceeding 20 years for purposes of depreciation allowances:

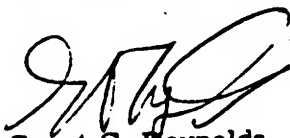
1. Under section 801 of P.L. 98-115, a contract cannot exceed 20 years plus a construction period. The specified term of the Lease to the Government in the RFP is 20 years. However, the Agreement to Lease in the RFP provides for the interim lease of the units as soon as they are completed under month-to-month arrangements prior to the commencement of the formal 20-year Lease. As a result, some of the buildings could be under lease to the Government for as long as 21 years. The interim lease provisions coupled with the 20-year Lease could be viewed as "successive leases of the same property." For purposes of determining the maximum allowable 20 year lease term under ACRS guidelines, "successive leases" which are part of the same transaction with respect to the same property are to be treated as one lease. (See Conf. Rept., supra, at p. 788). Under this guideline, the length of the lease to the Government may be regarded as exceeding 20 years.

2. Some of the buildings will, in fact, be occupied for more than 20 years. Even if the interim occupancy provisions were not construed to result in "successive leases" of the same property, the actual lease term can be viewed as longer than 20 years.

3. The land is inside a military base, which is closed to access by unauthorized persons, and it has no independent point of entry to public roads or private property. The only potential entry points that could be built lead through an airport or a national park; permission to construct roads over those lands is unlikely. Ample evidence exists that the parties expect the requirement for military housing to continue throughout the useful life of the buildings, and that they contemplate renewing the lease to allow continued occupancy by military families as public quarters.

These factors are, in my judgment, stronger than those in Hokanson, and would lead a court, "under all the facts and circumstances," to conclude that the lease is for more than 20 years. I would expect the IRS to object vigorously to any attempt to use ACRS rather than 40 year straight line depreciation. I would not object, therefore, to use of 40 year straight line depreciation in the economic analysis for Hanscom.

This opinion is limited to Hanscom; it is quite possible that a Section 801 build/lease agreement could be structured to qualify for ACRS, even if on base. The "facts and circumstances" approach of the conference report makes generalized rulings on all such transactions improvident.



Grant C. Reynolds
Assistant General Counsel

cc: SAF/MII (Mr. Boatright)
ESD/JA (Col Farr)
AFSC/DE (Col Sims)

SECTION 801 BUILD-TO-LEASE MILITARY HOUSING PROGRAM
GOODFELLOW AIR FORCE BASE, TEXAS

AN ECONOMIC AND SENSITIVITY
ANALYSIS OF ALTERNATIVES FOR
PROVIDING FAMILY HOUSING

Prepared by
HQ US Air Force
Pentagon
Washington, DC 20330-5130

August 1986

Summary of Analysis and OMB/OSD revisions at Tabs A and B
(Entered by OSD, 9/3/86)

This analysis was developed in accordance with the ground rules and discount rate coordinated with OMB National Security Staff in February 1986, and confirmed by OSD memorandum of 3 April 1986. The analysis was the basis of a submission to Congress on 20 May 1986 to establish a ceiling price for the 801 proposal. Bidders were advised to bid under the ceiling to ensure that their proposals would have Net Present Values less than the Military Construction Alternative. The results of the bid proposals utilizing the 3 April ground rules are:

	Goodfellow AFB
Net present value of the MILCON alternative	\$15,497,027
Net present value of the 801 alternative	\$15,239,312
801 savings versus MILCON (%)	2%

During OMB review of three Navy 801 projects in July 1986 one assumption of this and all previously OMB approved analyses was ruled incorrect. The ruling was made after the government had solicited proposals and designs from contractors and agreed to lease ceilings with Congress. The change involved the assumption of sale of the 801 project after 20 years and resulting capital gains tax payable by the 801 developer. Previously this tax was subtracted from the 801 proposal as a gain to the government. The new view is that the taxes arising from the sale of the project represent a loss to the government amounting to the difference between the tax due at regular income rates and that due at the favorable capital gains rate. Because of this the assumption of sale was dropped lowering the amount of savings for each 801 proposal and in the case of Goodfellow AFB rendering MILCON the least cost alternative. Tab A of the attached analysis is based on the assumption of no sale of the 801 project with results as listed below.

	Goodfellow AFB
Net present value of the MILCON alternative	\$15,497,027
Net present value of the 801 alternative	\$15,939,176
801 savings versus MILCON (%)	-3%

Under the revised ground rules above, the 801 proposal is less appealing than under the rules of 3 April. However, the new tax legislation changes the picture significantly and, as outlined below, renders the 801 alternative substantially more attractive than MILCON.

The basic analysis and the revision at Tab A include the effect of the existing tax preference for accelerated depreciation. Under the present tax laws for off-base projects the developer may use an accelerated depreciation schedule. The cost of this tax preference has been charged to the 801 alternative in this analysis and is included in both 801 net present value figures above. The approved Conference version of the Tax Reform Act includes no provision for accelerated depreciation. Under Tax reform the developer will not be able to claim accelerated depreciation which significantly lowers the cost of this 801 proposal to the government. The effect of tax reform on the cost to the government of this 801 proposal and, in accordance with latest OMB guidance, assuming no sale of the 801 project, is summarized in Tab B of the attached analysis and in the table below:

	Goodfellow AFB
Net present value of the MILCON alternative	\$15,497,027
Net present value of the 801 alternative	\$13,991,398
801 savings versus MILCON (%)	10%

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I. EXECUTIVE SUMMARY

A. The Decision Objective

The objective of this study is to determine if a proposed military lease housing program is a cost effective means of providing adequate housing for 200 military personnel at Goodfellow Air Force Base, Texas when compared to military construction.

B. Background

Section 801 of the Military Construction Authorization Act of 1986 authorized the Secretary of each Military Department to enter into long term lease agreements for up to 600 units. Goodfellow Air Force Base is one of the locations selected for this program. If approved by Congress, these housing facilities would be available for beneficial occupancy in FY 87.

Major provisions set forth in this program are as follows:

- . Occupants would forfeit Basic Allowances for Quarters (BAQ) and Variable Housing Allowances (VHA) in return for assigned quarters.
- . The Government would pay all rent, utilities and administrative costs.
- . The program cannot be applied to existing housing.
- . The new housing units may be required to be constructed in conformance with DOD specifications.
- . Upon termination of the lease agreement, the Government would have the right to acquire all right, title, and interest in the leased housing facilities.
- . The leasing arrangement cannot exceed 20 years.
- . A validated deficit in military housing must exist in the general area.
- . Use of military controlled housing must have exceeded 97 percent occupancy 18 consecutive months preceding an agreement.
- . Priority shall be given to military families.
- . The new housing units will be built on privately owned land.

C. Major Assumptions

1. The structure life for new construction is assumed to be 40 years.
2. New housing would be constructed on private land under the 801 program.
3. In order to facilitate the estimate of implied residual value (MILCON Program), it is assumed that a demand for the housing facilities will exist beyond the analysis period (FY 2008).
4. A scheduled beneficial occupancy date (BOD) will be set to occur upon completion and acceptance of the housing project by the Government in FY 88.
5. The 801 Program assumed 18 year accelerated depreciation with preferential tax treatment.

D. Methodology

1. A current dollar analysis was performed, and present value calculations utilized a discount rate of 9.6 percent (per OMB and OSD guidelines).
2. All costs are estimated in FY 86 prices (current dollars). Future cost increases due to inflation are included in the analysis.
3. Expense elements which would be the same for either alternative are considered wash costs, and are not included in the comparative cost analysis.
4. The length of the analysis period is 21 years (FY 87 through FY 2007).

E. Alternative Courses of Action

Two potential housing alternatives for Goodfellow Air Force Base are analyzed herein:

1. Construction of 200 new family housing units over a 2 year period from FY 87 to FY 88, with scheduled BOD of mid FY 1987.
2. 801 Build-to-Lease Program. The Air Force would enter into a long-term agreement to lease 200 rental units to be constructed by a private developer with scheduled BOD of mid FY 1987. Specific provisions of the agreement were previously described in paragraph B above. The rental units would be located on private land.

F. Economic Analysis Results

These analyses reveal that the least costly viable alternative to meet Goodfellow Air Force Base housing needs would be through the Section 801 Build-to-Lease Program. The advantages and disadvantages of each alternative are summarized in Table I-1.

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2. New housing would be constructed on private land under the 801 program.
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TABLE I-1

COMPARISON OF HOUSING ALTERNATIVES

<u>Element</u>	<u>Alternatives</u>	
	<u>New Construction</u>	<u>Build-to-Lease</u>
Net Present Value	disadvantage (\$15.5M)	advantage (\$15.2M)
Initial Government outlay	disadvantage	advantage
Recurring O&M costs	advantage (\$0.143M)	disadvantage (\$0.213M)
Adds to available housing assets	equal	equal
Insures housing services obtainable for 20 years	equal	equal
Availability of housing services after 20 years	advantage	disadvantage
Time required to implement alternative	approx equal	approx equal

G. Sensitivity Analysis Results

This economic analysis requires that certain assumptions and judgments be applied to the development of the various expense elements. Sensitivity tests were performed to determine what changes would be required in each cost element to produce a different ranking of the housing alternatives. If slight changes in an estimated cost item would alter the ranking of alternatives, the analysis is said to be "sensitive" to that variable. The results of this analysis are shown later in Table II-3 and are described in Section II paragraph D2.

H. Nonmonetary Factors

Using the results of this analysis as the only selection criterion suggests that the least costly alternative is the best choice. The 801 Leasing Program and the MILCON alternatives are equivalent and comparable in that each would satisfy the objectives of providing adequate housing services.

I. Recommended Course of Action

It is felt that the requirement to provide needed Government housing services for military personnel at Goodfellow Air Force Base can best be accomplished through the 801 Build-to-Lease Program. As indicated earlier, there are insufficient existing adequate, community assets to permit individual service members to readily acquire needed housing in the local area. Without any increases in available community assets, greater demand for available off-post housing would most certainly have varying undesirable community impacts. The 801 Lease Program is the least costly feasible alternative and would best serve the Air Force housing requirements at Goodfellow Air Force Base.

II. Detailed Summary

A. Background

Goodfellow Air Force Base is located within the city limits of the southeastern portion of San Angelo, Texas. Goodfellow is the Cryptological Training Center for the US Air Force. As the delegated DOD executive for this training and the only location at which it is taught, it conducts initial and career progression for Air Force, Army, Navy and Marine Corps personnel. During 1986 - 88 all USAF Intelligence Training activities will be consolidated at Goodfellow. Southwest PAVE PAWS, soon to be completed, will add yet another mission to the base. The city of San Angelo has a population of approximately 85,000. The surrounding area is arid with rolling hills and plateaus. The local economy is primarily based on agriculture, and the cotton and feed crops. The city also has significant employment in the pharmaceutical and communications industries.

B. Housing Requirements

Provisions set forth in the Build-to-Lease Program specify that an agreement may be entered into only when validated military housing deficits exist. Application of this requirement substantiates the need for additional family housing facilities in the Goodfellow Air Force Base area.

DD Forms 1377 and 1378 - the 30 Sept 1985 survey are provided in Appendix C. Summary information extracted from these forms is presented in Table II-1.

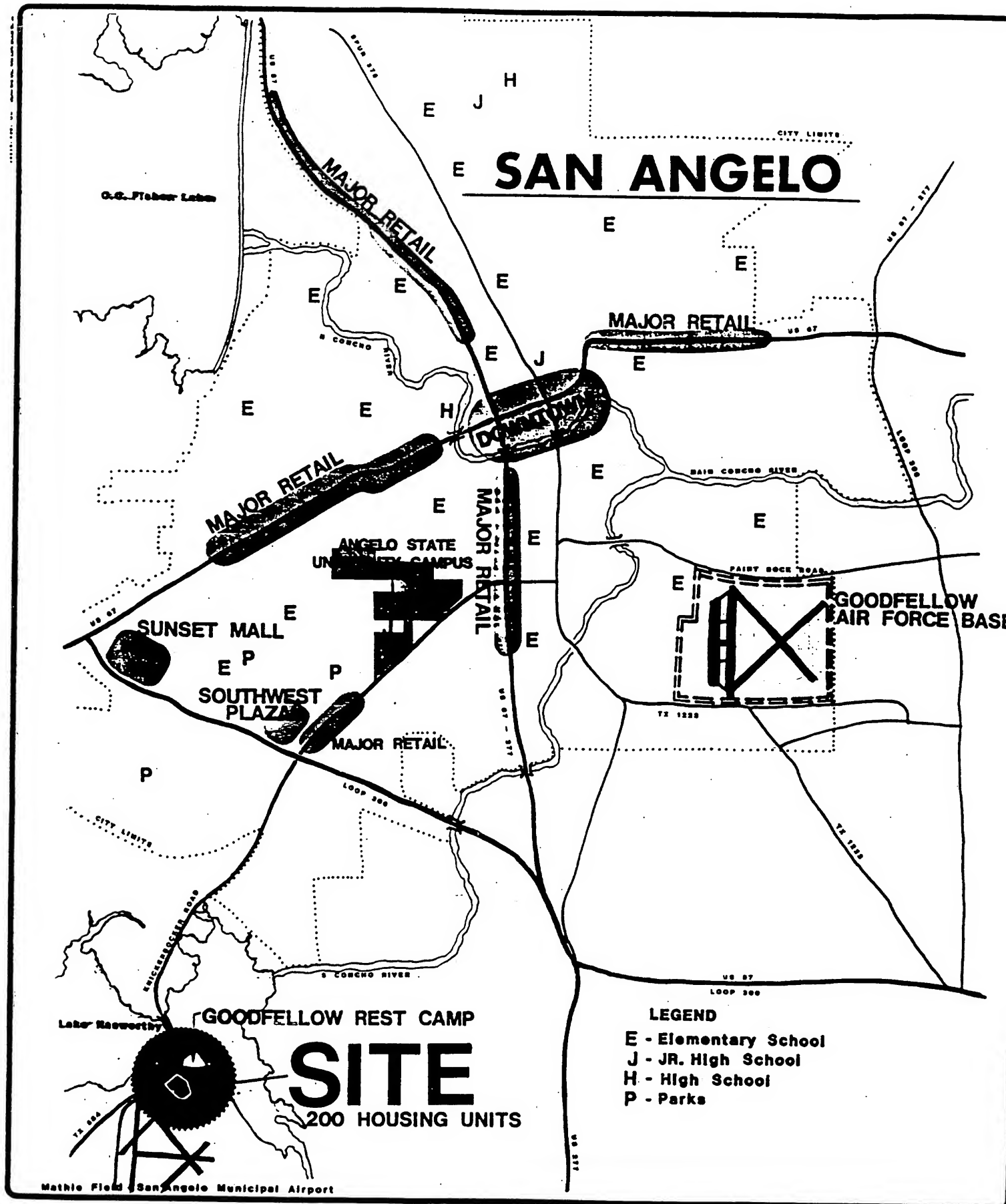
TABLE II-1

PROJECTED HOUSING REQUIREMENTS
(Eligible Accompanied Personnel)

<u>Item</u>	<u>Officers</u>	<u>Enlisted</u>	<u>Total</u>
Effective requirement	157	1153	1310
Military housing	3	96	99
Off-post housing	74	579	653
Net Deficit	80	478	558
Programmable deficit	66	363	429

SOURCE: Preliminary DD Form 1378

Figure II-1



GOODFELLOW AIR FORCE BASE HOUSING
SAN ANGELO, TEXAS

PROPOSER I.D.: 3889

DATE: 6-16-86

C. Calculations for Each Alternative

1. A year-by-year display of the calculation results for the two alternatives is shown in table II-2. For each alternative, the table shows, in current 1986 dollars, the following items on an annual basis over the 21-year analysis period.

- a. The estimated amount for each expense element.
- b. The total of all expense elements ("TOTAL ANNUAL OUTLAYS").
- c. The present value of all expense elements ("NET PRESENT VALUE").
- d. The present value of all expense elements through indicated year ("CUMULATIVE NET PRESENT VALUE").
- e. The cumulative present value of costs through given year less present value of residual for given year ("CUMULATIVE NET DISCOUNTED P.V.").
- g. The annualized cost (equivalent uniform annual amount for the 21-year period of analysis).

D. Sensitivity Analysis

1. Introduction. Sensitivity analyses were conducted primarily to determine the extent to which the study findings would be affected by altering the input data. Since varying levels of certainty and confidence apply to the input assumptions, changes were made in each of the key assumptions to determine their sensitivity on the ranking of alternatives.

2. Sensitivity Test Results. Comparison of the two alternatives revealed that the least costly option would be the 801 Build-to-Lease Program. A number of sensitivity tests were performed for the two options. As a result, six variables were identified to be somewhat sensitive to cost changes.

Comparison of the alternatives revealed that new construction would become the least cost alternative if:

- the inflation rate was decreased by 20.5% from 3.9 to 3.1 percent.
- the construction cost was reduced by 1.40% from \$13,441,000 to \$13,250,000.

FIGURE II-2
COST ELEMENTS

GENERAL DATA

LOCATION	Goodfellow AFB, TX
Number of Units	200
Starting FY	1987
Discount Rate	9.6%
Monthly Housing Allowance per Unit	473

MILCON DATA

Land Cost	\$202,500
Construction Cost	\$13,441,438
% of Cost Spent 1st Year	50%
Annual Operational Cost per Unit	212
Annual Insurance Cost per Unit	24
Annual Maintenance Cost per Unit	\$715.00
Maintenance Real Increase Rate	0.6%
Real Estate Tax Rate	1.61%
Building Deterioration Rate	1.7%
Land Appreciation Rate	1.5%

LEASE DATA

Shelter Rent	\$1,099,083
Maintenance Rent	\$212,993
Proposed Land Cost	\$202,500
Proposed Building Cost	\$13,441,438
Real Estate Tax Rate	1.61%
R. E. Tax Increase Rate	3.0%
Developer's Tax Bracket	46.0%
Capital Gains Tax Rate	28.0%

RESULTS

MILCON NPV =	\$15,497,027
LEASE NPV =	\$15,239,312

- the Annual Maintenance Costs were reduced by 18.9% from \$715 to \$580.
- the Real Estate Tax Rate was reduced by 1.9% from 1.61 to 1.58 percent
- the Shelter Rent was increased by 1.5% from \$1,099,083 to \$1,115,216.
- Maintenance Rent was increased by 10.6% from \$212,993 to \$235,600.

The result of these analyses are summarized in Table II-3

CHANGES IN COST ELEMENTS TO RANK
NEW CONSTRUCTION AS LEAST COSTLY

TABLE II-3

<u>Cost Elements</u>	<u>Required Changes</u> (Percent)
Inflation Cost	20.5
Construction Cost	1.4
Maintenance Rate	18.9
R.E. Tax Rate	1.9
Shelter Rent	1.5
Maintenance Rent	10.6

TABLE II-4
Summary of Alternatives

<u>Cost Elements</u>	<u>Alternatives</u>	
	<u>MCP Construction</u>	<u>Build to Lease</u>
Construction Costs	x	
Payment of Allowances (BAQ, VHA)	x	x
Operations	x	
Maintenance and Repair	x	
Equipment	x	
Imputed Insurance	x	
Imputed Taxes	x	
801 Lease Costs		x
Real Estate Tax Increases (80%)		x
Discount Rate	x	x
Inflation Rate	x	x
Utilities	x	x
Land Acquisition	x	
Residual Value	x	
Accelerated Depreciation Advantage		x

Table II-5 summarizes the calculation results for cumulative net discounted present value for each of the 21 years of the period of analysis.

TABLE II-5

SUMMARY OF CALCULATION RESULTS
 ** NET PRESENT VALUE **

GOODFELLOW AFB, TX

<u>ITERATION</u>	<u>FY1988</u>	<u>FY1989</u>	<u>FY1990</u>	<u>FY1991</u>	<u>FY1992</u>
NEW CONSTRUCTION SECTION 801	7,589,179 1,230,198	13,904,621 2,870,476	14,078,413 4,322,257	14,424,020 5,614,103	14,707,605 6,761,913
<u>ITERATION</u>	<u>FY1993</u>	<u>FY1994</u>	<u>FY1995</u>	<u>FY1996</u>	<u>FY1997</u>
NEW CONSTRUCTION SECTION 801	15,053,132 7,781,199	15,336,245 8,721,770	15,610,060 9,557,472	15,893,678 10,329,558	16,174,744 11,043,147
<u>ITERATION</u>	<u>FY1998</u>	<u>FY1999</u>	<u>FY2000</u>	<u>FY2001</u>	<u>FY2002</u>
NEW CONSTRUCTION SECTION 801	16,391,487 11,702,930	16,596,120 12,313,212	16,839,605 12,877,938	17,017,012 13,381,951	17,206,711 13,848,997
<u>ITERATION</u>	<u>FY2003</u>	<u>FY2004</u>	<u>FY2005</u>	<u>FY2006</u>	<u>FY2007</u>
NEW CONSTRUCTION SECTION 801	17,361,952 14,281,981	17,537,638 14,683,570	17,679,251 15,056,212	17,806,334 15,402,157	17,925,218 15,680,135
<u>ITERATION</u>	<u>FY2008</u>				
NEW CONSTRUCTION SECTION 801	15,497,027 15,239,312				

E. Methodology and Assumptions

1. General. Investigations were made to determine the expense elements which should be addressed in the two alternatives investigated. The development of expense estimates is detailed in appendix A of this report. Calculations were performed to estimate the present value of the stream of future expenditures required for the implementation of each alternative. Computer outputs were then generated which display the projected costs per year with estimated inflationary effects (current 1986 dollar analysis), present value per year, cumulative present value per year, and cumulative present value net of residual (terminal, or salvage value) for each year.

2. Assumptions

a. A discount rate of 9.6 percent is applied (per OMB and OSD guidelines) to determine the present value of current dollar expenditures.

b. Discount calculations for expense elements were performed using mid-year convention.

c. Price level changes due to inflation are included in this analysis. OMB/OSD inflation rate guidelines are utilized on all applicable cost items. Initial input cost element variables are based on various price levels. All cost elements are adjusted to reflect FY 86 price levels using the inflation rate guidelines presented in Appendix B of this report.

d. The most probable structure life for the new construction alternative is estimated at 40 years for the purpose of calculating a residual value at the end of the period of analysis. This residual value is computed using the building decay-obsolescence schedule contained in OMB circular A-104, Attachment B.

e. Residual value is considered in the analysis (See Appendix A.).

f. Expense elements which would be the same (ie: utilities costs) are considered "wash" costs and are not included in the comparative cost analysis.

g. The length of the analysis period is 21 years (FY 1987 through FY 2007).

h. New housing would be constructed on land provided by the Proposers.

i. The 801 Program assumes 18-year accelerated depreciation with preferential tax treatment.

j. A market value/demand for the housing facilities was assumed to exist beyond analysis period (2007) to estimate implied value (MCP Program).

k. A scheduled BOD set to occur upon completion and acceptance of entire project by the Government in FY88.

APPENDIX A

DETAILED COST ELEMENT BUILD-UP

I. Introduction. This section of the report describes the procedures followed in the derivation of cost items included in these economic analyses. The resultant figures were used in calculating present value cost estimates for the various alternatives investigated.

II. Cost Element Items. A schedule of the major cost elements for each of the alternatives was previously shown in year-by-year detail in Table II-2. The schedule reflects FY86 price levels and spans the 21-year period of analysis (FY 1987 through FY 2007).

III. Cost Element Details.

A. Construction Cost: MCP (Variable 1)

New construction costs were based on estimates developed by HQ US Air Force, using the Tri-Service Cost Model. Under this alternative, it was assumed that 200 new housing units would be built off-base. Table A-1 summarizes the cost estimate for the MCP alternative.

<u>Fiscal Year</u>	<u>%Completion</u>	<u>Annual Cost</u>
87	50	\$6,720,719
88	50	\$6,720,719

B. 801 Build to Lease Program (Variable 2)

This program, which was authorized under the Military Construction Authorization Act of 1986, was designed to test whether family housing could be provided more economically than by conventional means. The proposed units would be constructed to meet the space requirements for accompanied enlisted grade personnel. Under this plan, 200 dwelling units would be constructed, operated, and maintained by a private contractor. The units would be built on privately-owned land provided by the the proposer. The leasing agreement between the Government and the contractor may not exceed 20 years. Under this program, the individual service person would forfeit his/her BAQ and VHA and be assigned to the housing unit.

Annual Shelter Rent costs of \$1,099,083 were applied which reflect the actual bid price contained in the selected proposal. This annual amount is not subject to change during the lease period. The maintenance rent portion of the bid is subject to inflationary adjustments and is described in (Variable 5). Annual Shelter Rent expenditures for the analysis period is as follows:

Table A-1

TRISERVICE FAMILY HOUSING COST MODEL

SERVICE Air Force LOCATION GOODFELLOW AFB, TX

BASELINE:

$$\begin{aligned} (200) (1170) (46) &= \$10,764,000 \\ (\text{No. Units}) (\text{ANSF}) (\$/\text{NSF}) &= \underline{\text{5' Line Cost}} \end{aligned}$$

PROJECT FACTORS:

$$\begin{aligned} (0.87) (0.98) (0.98) &= 0.836 \\ (\text{ACF}) (\text{Project Size}) (\text{Unit Size}) &= \underline{\text{Project Factor}} \end{aligned}$$

HOUSING COST:

$$\begin{aligned} (10,764,000) (0.836) &= \$8,999,000 \\ (\text{5' Line Cost}) (\text{Project Factor}) &= \underline{\text{Adjusted 5' Line cost}} \end{aligned}$$

$$\begin{aligned} (2500) (0.87) (200) &= \$435,000 \\ (\text{Solar Unit Cost}) (\text{ACF}) (\text{Units}) &= \underline{\text{Total Project Solar Cost}} \end{aligned}$$

$$\begin{aligned} (8,999,000) + (435,000) &= \$9,434,000 \\ (\text{Adjusted 5' Line Cost}) + (\text{Solar}) &= \underline{\text{Housing Cost}} \end{aligned}$$

LAND COST: \$202,500

SUPPORTING COST:

Site preparation
Roads and paving
Utilities (30% of Adjusted 5' Line Cost)
Landscaping
Special Construction

$$\begin{aligned} &= \$2,700,000 \\ &= \underline{\text{Support Cost}} \end{aligned}$$

SUMMARY:

$$\begin{aligned} (9,434,000) + (2,700,000) &= \$12,134,000 \\ (\text{Housing Cost}) + (\text{Support Cost}) &= \underline{\text{Subtotal}} \end{aligned}$$

$$\begin{aligned} (12,134,000) (1.05) (1.055) &= \$13,441,438 \quad \text{Say: } \$13,441,000 \\ (\text{Subtotal}) (\text{Contingency}) (\text{SIOH}) &= \underline{\text{Project Cost}} \quad \underline{\text{Round}} \end{aligned}$$

$$\begin{aligned} (203,000) + (13,441,000) &= \$13,644,000 \\ (\text{Land Cost}) + (\text{Project Cost}) &= \underline{\text{Total Project Cost}} \end{aligned}$$

$$\begin{aligned} (13,441,000) / (200) (1170) (0.87) &= \$66.02 \\ (\text{Project Cost}) / (\text{No. Units}) (\text{ANSF}) (\text{ACF}) &= \underline{\text{Proj Cost/Sq Ft/ACF}} \end{aligned}$$

ANSF - Average net square feet/unit.

ACF - Area Cost Factor

PROJECT SIZE - (No. Units)

UNIT SIZE - (Net Square Feet)

1-49 units = 1.05
50-99 units = 1.02
100-199 units = 1.00
200-499 units = 0.98
500+ units = 0.95

950-1050 = 1.00
1051-1150 = 0.99
1151-1250 = 0.98
1251-1350 = 0.97
1351+ = 0.96

Fiscal Year	Number of Units	Period of Operation (Months)	Monthly Rental Cost/Unit	Annual Expenditures
---	---	---	---	---
87	200	6	\$458	\$549,542
88-2007	200	12	\$458	\$1,099,083

C. Land Acquisition: MCP Construction (Variable 3)

The proposed build to lease alternative involves the use of privately-owned land provided by the proposer. Land costs under this alternative are included in the estimated monthly costs contained in the selected proposal (see variable 2).

Housing facilities constructed under the MCP Program are normally sited on Government-owned lands. As such, no actual cash outlays occur to the Government to obtain the needed lands, however, there is an implicit value for their use. Facilitating equal comparison between the two housing alternatives required that an implied land value be assumed under the MCP alternative.

Available land adjacent to Goodfellow AFB would sell for about \$6,750 per acre. This figure multiplied by 30.0 acres (number acres of land proposed in the 801 option) yields a land cost of \$202,500 in FY86. This expense element would not be subject to inflationary effects.

D. Utilities: MCP Construction and 801 Lease (Wash)

Utility expenses for both alternatives will be equal and are considered wash costs.

E. Maintenance and Repair: MCP Construction (Variable 4)

An Annual Maintenance Real Increase rate of 0.6%, was used by the Air Force for this variable, which accounts for increased maintenance costs due to the buildings aging and is based on historic Air Force costs.

Using this trendline, M&R costs were adjusted annually during the analysis beginning in FY88 to reflect the expected increased costs due to aging. Resultant annual M&R expenditures are as follows:

:Number		:Period of	MCP		801 Lease	
Fiscal:	of	:Operation	: Annual	: Annual	: Annual	: Annual
Year	: Units	: (Months)	:Cost/Unit	:Expenditures	:Cost/Unit	:Expenditures
1987	200	6	358	71500	532	106497
1988	200	12	743	148577	1106	221300
1989	200	12	773	154550	1144	228824
1990	200	12	800	159987	1177	235460
1991	200	12	824	164809	1206	241111
1992	200	12	848	169611	1233	246656
1993	200	12	873	174554	1262	252329
1994	200	12	898	179640	1291	258133
1995	200	12	924	184874	1320	264070
1996	200	12	951	190261	1351	270144
1997	200	12	979	195805	1382	276357
1998	200	12	1008	201510	1414	282713
1999	200	12	1037	207382	1446	289216
2000	200	12	1067	213424	1479	295868
2001	200	12	1098	219643	1513	302673
2002	200	12	1130	226043	1548	309634
2003	200	12	1163	232629	1584	316756
2004	200	12	1197	239408	1620	324041
2005	200	12	1232	246384	1657	331494
2006	200	12	1268	253563	1696	339118
2007	200	12	1305	260951	1734	346918

1/ Includes projected annual inflationary price increases.

F. Maintenance and Repair: 801 Build to Lease (Variable 5)

Maintenance and repair costs of \$17,750 per month were applied which reflect costs specified in the selected proposal. As per the terms in the Request for Proposal (RFP), these costs will be allowed to escalate due to inflation after the first year of occupancy. "Economic Indicators" prepared for the Joint Economic Committee of Congress by the Council of Economic Advisors were applied to adjust for inflation. Annual expenditures under this alternative are also shown in the table above.

G. Equipment: MCP Construction (Variable 6)

Under this alternative, new refrigerators, ranges, and ovens would be installed in the new housing units. Since appliances vary in size and capacity, average size requirements were established based on the anticipated grade distribution. Further, it would be expected that these appliances would require periodic repair with eventual replacement once over the life of the project, based on experienced service life of individual appliances. A schedule of the annual expenditures for equipment is presented below.

Fiscal Year	:	Annual Expenditures
87	:	0
88	:	0
89	:	0
90	:	0
91	:	0
92	:	4516
93	:	0
94	:	17088
95	:	74760
96	:	112627
97	:	0
98	:	5177
99	:	161722
2000	:	0
01	:	85689
02	:	0
03	:	132060
04	:	27385
05	:	0
06	:	0
07	:	98215

H. Federal Tax Revenue: 801 (Variable 7)

Estimates of the Federal tax revenue received under the 801 alternative were derived based upon the following assumptions:

- Developer will sell all dwelling units (real property) constructed under the 801 Program to party(s) other than the Government upon completion of the 20-year lease term and pay Federal tax due.
- Revenues received would be taxed as capital gains and would reduce 801 Program costs by generating tax revenue.
- Assumed capital gains rate of 28 percent.

The resultant cost estimates generated based on the above assumptions are as follows:

$(13.441 \text{ million } \underline{1/}) \times (1.629) \times (0.71) = \15.55 million
 (Construction Cost) (Compound Inflation Factor 2/) (Bldg Decay Factor 3/) Expected Profit on sale

$(15.55 \text{ million}) \times (28\% \text{ Capital Gains Rate}) = \$4.38 \text{ million (FY2008)}$
 (Expected Profit on sale) Revenue on Sale

- 1/ Estimated construction cost.
- 2/ Compound inflation factor based upon guidance set forth in CNO (OP-90) Memo dated 10 Feb 86.
- 3/ See Building Decay Factors contained in OMB Circular A-104, Attachment B.

I. Allowances: MCP and 801 (Variables 8 and 10)

Payment of allowances were based on the Basic Allowance for Quarters (BAQ) and Variable Housing Allowance (VHA) for Goodfellow Air Force Base (FY86 prices). Calculation of applicable allowances paid per service member per month based upon a simple average for personnel grades E4-06, respectively. Calculations of the average allowance to be paid on a monthly/DU basis are as follows:

Grade	BAQ	1/	VHA	TOTAL	Average Cost/ Dwelling Unit/ Month
E4-06	362.00		112.00	473.00	\$ 473.00

- 1/ BAQ and VHA displayed above reflect a simple average of allowances paid for each grade over the range shown.
- 2/ Allowances to be paid under either alternative (MCP or 801) are based upon project composition in the selected proposal.

Under the MCP Alternative, it was assumed that allowances would be paid on 200 service members during the 2-year construction period. Similarly, allowances would be paid under the 801 Program based on the 24-month construction period as set forth in the subject RFP. Scheduled annual expenditures are as follows:

Fiscal Year	:	Number of Units	:	Period of Operation (Months)	:	Monthly Cost/Unit	:	Annual Expenditures <u>1/</u>
-------------	---	-----------------	---	------------------------------	---	-------------------	---	-------------------------------

MCP Alternative

87	200	6	\$473.00	\$567,600
88-2007	-	-	-	-

Section 801

87	200	6	\$473.00	\$567,600
88-2007	-	-	-	-

1/ Does not reflect anticipated inflationary price increases.

J. Real Estate Taxes: 801 Build to Lease (Variable 9)

The RFP specifies that the Government will pay 80 percent of all increases in general real estate taxes levied after the second year of operation. General real estate taxes are those which are assigned on an ad valorem basis against all taxable real property in the taxing authority's jurisdiction. Tax rates for this cost element were assigned based upon the geographical location (i.e., taxing authority's jurisdiction) of the proposed housing units. Effective tax rates and methodologies shown below were applied to the 801 Build to Lease construction cost estimate for the purpose of calculating the appl. real estate tax expenses to be paid by the Government.

1.039	x	\$13,643,938	x	1.61%	= \$228,234 (FY86)
(Inflation Factor)		(Est. Constr Cost)		(Assessed Valuation)	(Est Tax Cost)
		Inc. Land			

Est. Tax Cost/DU = $\frac{\$228,234}{200 \text{ UD's}}$ = \$1141.17 (FY86)

Est. Tax Cost/DU/Month = $\frac{\$1141.17}{12 \text{ months}}$ = \$95.10 (FY86)

The above costs were indexed to the first full year following BOD (FY89) for the purpose of calculating increases in the applicable real estate taxes due and payable in FY90.

<u>Fiscal Year</u>	<u>Inflation Factor</u>	<u>Total Local Taxes Due</u>	<u>Increment of Increase From FY 89</u>	<u>Increment Taxes Payable by Federal Government (80% of Total)</u>
88	1.039	228234		
89	1.074	243074		
90	1.105	257627	14553	11642
91	1.132	271724	28650	22920
92	1.158	286313	43239	34591
93	1.185	301685	58611	46889
94	1.212	317883	74809	59847
95	1.240	334950	91876	73501
96	1.268	352934	109859	87887
97	1.297	371883	128808	103047
98	1.327	391849	148775	119020
99	1.358	412887	169813	135850
2000	1.389	435055	191981	153585
01	1.421	458413	215339	172271
02	1.454	483026	239951	191961
03	1.487	508959	265885	212708
04	1.521	536285	293211	234569
05	1.556	565078	322004	257603
06	1.592	595417	352343	281875
07	1.629	627385	384311	307449

K. Imputed Insurance: MCP Construction (Variable 11)

Insurance costs related to the MCP alternative reflect only those fees necessary to cover the liability claims. Property damage due to other types of casualties was excluded since the cost of repairs and/or replacement is handled under required maintenance and repair and thus is reflected in the annual M&R budget accounts. Costs included in this element represent localized commercial liability rates. The rate applied for the MCP alternative was \$24.00/dwelling unit/year. Annual expenditures for this cost element are as follows:

Fiscal Year	:	Period of Annual Operation	:	Inflation Factor	:	Annual Expenditures
87		6		1.000		2400
88		12		1.034		4987
89		12		1.074		5157
90		12		1.105		5306
91		12		1.132		5434
92		12		1.158		5559
93		12		1.185		5686
94		12		1.212		5817
95		12		1.240		5951
96		12		1.268		6088
97		12		1.297		6228
98		12		1.327		6371
99		12		1.358		6518
2000		12		1.389		6668
01		12		1.421		6821
02		12		1.454		6978
03		12		1.487		7138
04		12		1.521		7303
05		12		1.556		7471
06		12		1.592		7642
07		12		1.629		7818

L. Administration: MCP Construction (Variable 12)

Administration expenses included in the 801 Program provided for the services of an on-site manager, inspector, and maintenance technician to insure that the dwelling units are operated and maintained in accordance with the terms of the lease. Such expenses are implicitly built into the developer's proposal costs. Since installation housing management services currently exist, under the MCP option, the Government could manage the additional 200 units with existing personnel. Additional administrative cost = 0.

M. Residual Value: MCP Construction (Variable 13)

To facilitate equal comparison of the housing alternatives, an implied residual value was applied to the MCP alternative. For the 801 Program, the Federal tax revenue gained from the sale of properties to a non-Government entity was calculated at the end of the lease period (FY2008). Under the MCP option, residual value of the structures was considered a reduction in the cost of this alternative to the Government. This estimated residual value was computed and inserted during the final year of the analysis (FY2008). The procedure used to derive this value is shown below.

$$\begin{array}{rclclcl}
 (\$13,441,438) & \times & (1.6746) & \times & (0.71) & = & \$15,981,605 \text{ (FY2007)} \\
 \text{(Estimated} & & \text{(Compound Inflation} & & \text{(Bldg Decay} & & \\
 \text{MCP Cost)} & & \text{Factor 1/)} & & \text{Factor 2/} & & \text{Residual Value}
 \end{array}$$

1/ See footnote 2, item I.

2/ See footnote 3, item I.

N. Services: MCP Construction (Variable 14) (Operations)

Cost elements in the services account include refuse collection/disposal, and entomological services. Estimates of prior year service expenses averaged \$212 per unit.

The above cost/unit was then applied to the following schedule to derive the annual expenditures for services for 200 units. Under the 801 alternative, the cost to provide these services is included in the maintenance rent fee.

Fiscal	:	Period of	:	
Year	:	Operation	:	Annual
	:	(Months)	:	Expenses
87		6		21200
88		12		44054
89		12		45551
90		12		46872
91		12		47997
92		12		49101
93		12		50231
94		12		51386
95		12		52568
96		12		53777
97		12		55014
98		12		56279
99		12		57573
2000		12		58898
01		12		60252
02		12		61638
03		12		63056
04		12		64506
05		12		65990
06		12		67507
07		12		69060

O. Accelerated Depreciation Advantage: 801 (Variable 15)

The cost to the Federal Government in tax revenues due to the permitted use of an accelerated depreciation program is reflected below. An initial construction cost of \$13,441,438 was estimated and used as the basis for tax purposes. Only the difference between accelerated and normal depreciation schedules was charged as a loss of tax revenues. The methodology applied for calculating the tax advantage derived by the developer under the 801 Program is represented as follows:

<u>Fiscal Year</u>	<u>Accelerated Depreciation Schedule</u>	<u>Straight-Line Depreciation Schedule</u>	<u>Percent Difference</u>	<u>Advanced Depreciation Difference 1/</u>	<u>Estimated Tax Loss to the Govt 2/</u>
87	-	-	-	-	-
88	.10	.025	.075	1008108	463730
89	.09	.025	.065	873693	401899
90	.08	.025	.055	739279	340068
91	.07	.025	.045	604865	278238
92	.06	.025	.035	470450	216407
93	.06	.025	.035	470450	216407
94	.05	.025	.025	336036	154577
95	.05	.025	.025	336036	154577
96	.05	.025	.025	336036	154577
97	.05	.025	.025	336036	154577
98	.05	.025	.025	336036	154577
99	.05	.025	.025	336036	154577
2000	.04	.025	.015	201622	92746
01	.04	.025	.015	201622	92746
02	.04	.025	.015	201622	92746
03	.04	.025	.015	201622	92746
04	.04	.025	.015	201622	92746
05	.04	.025	.015	201622	92746
06	.00	.025	(.025)	-336036	-154577
07	.00	.025	(.025)	-336036	-154577

1/ Initial construction costs multiplied by percent difference

2/ Tax loss calculated by multiplying advanced depreciation difference by 46% tax rate (OMB Guidance).

P. Government Contract Administration: 801

The Air Force includes this cost element for the 801 alternative for each year of the 20 year life to offset a similar full charge for administration for the MILCON alternative. This given level is considered as offsetting costs in the analyses. Differential costs (beyond the level required for both) are charged to one applicable alternative, in this case the 801 analysis.

APPENDIX B

INFLATION AND RESIDUAL FACTORS

I. Inflation. When appropriate, adjustments were made to place all the cost data at current dollar FY86 price levels. As specified by DOD comptroller via letter date 19 February 1986, based on OMB guidance of 27 December 1985, the inflation rate guidelines shown in table B-1 were applied to adjust the cost elements to reflect FY86 and all future price levels.

TABLE B-1

INFLATION RATE GUIDELINES

<u>Fiscal Year</u>	<u>Inflation Rate</u> (percent)
1987-88	3.9
1988-89	3.4
1989-1990	2.9
1990-1991	2.4
1991-2007	2.3

II. Residual Factors. Calculations of a residual value of a particular item can sometimes be a critical element in an economic analysis. In the case of a structure, the residual value would be its net disposal value at the end of the project life. The residual value of a structure is generally thought to decline over time, reflecting its use, consumption, and/or physical deterioration.

For purposes of this economic analysis, Building Decay Obsolescence Factors were used to calculate residual value for the new construction alternative. Residual factor applicable to this method are listed in Table B-2. Initial construction cost was assumed to approximate new market value. Multiplying this amount by a selected residual factor yields the estimated residual value (in FY86 prices) for the selected year.

APPENDIX C
FAMILY HOUSING SURVEY

TABULATION OF FAMILY HOUSING SURVEY

REPORT CONTROL SYMBOL

DD FORM (A) 665

1. DATE OF SURVEY	OFFICERS a	ELIGIBLE ENLISTED b	CIVILIANS c	SUBTOTAL (a + b + c) d	OTHER ENLISTED e	TOTAL (d + e) f
2. TOTAL PERSONNEL STRENGTH	139	1398	602	2139	749	3088
3. PERMANENT PARTY HOUSING STRENGTH AND KEY CIVILIANS	113	1121	0	1214	421	1695
4. NUMBER OF FAMILIES	51	804	0	825	118	1003
5. HOUSING REQUIREMENTS FACTOR	71.7%	73.0%	0%	72.9%	24.5%	59.2%
6. NOT LIVING WITH FAMILY (TOTAL: 7 + 10)	3	48	0	51	17	68
7. INVOLUNTARILY SEPARATED FAMILIES	1	5	0	6	4	10
8. (PREFER MILITARY QUARTERS)	1	0	0	1	0	1
9. (PREFER PRIVATE HOUSING)	0	5	0	5	4	9
10. VOLUNTARILY SEPARATED FAMILIES	2	43	0	45	13	58
11. LIVING WITH FAMILY IN AREA (TOTAL: 12 + 19)	78	756	0	834	101	935
12. SUITABLY HOUSED (SUBTOTAL: 13 + 16)	74	665	0	739	99	838
13. IN MILITARY CONTROLLED HOUSING	3	95	0	98	1	99
14. (PREFER RENTING OFF POST)	0	8	0	8	0	8
15. (PREFER OWNING OFF POST)	2	12	0	14	0	14
16. IN PRIVATE HOUSING	71	570	0	641	98	739
17. (PREFER MILITARY QUARTERS)	28	86	0	114	39	153
18. (PREFER RENTING OFF POST)	11	177	0	188	50	238
19. UNSUITABLY HOUSED (SUBTOTAL: 20 + 23)	4	91	0	95	2	97
20. IN MILITARY CONTROLLED HOUSING	0	0	0	0	0	0
21. (PREFER RENTING OFF POST)	0	0	0	0	0	0
22. (PREFER OWNING OFF POST)	0	0	0	0	0	0
23. IN PRIVATE HOUSING (SUBTOTAL: 26 + 28)	4	91	0	95	2	97
24. (PREFER MILITARY QUARTERS)	1	33	0	34	1	35
25. (PREFER RENTING OFF POST)	3	30	0	33	1	34
26. EXCESS DISTANCE	1	6	0	7	0	7
27. SUBSTANDARD	1	57	0	58	2	60
28. EXCESS COST ONLY (Over MAHC)	2	28	0	30	0	30
29. LESS THAN \$5	0	0	0	0	0	0
30. \$5 TO \$10	0	2	0	2	0	2
31. \$10 TO \$25	0	5	0	5	0	5
32. \$25 TO \$50	1	6	0	7	0	7
33. \$50 AND MORE	1	15	0	16	0	16
34. IN OWNER OCCUPIED HOUSES (TOTAL: 35 + 36)	47	318	0	365	0	365
35. SUITABLE IN ALL RESPECTS	47	299	0	346	0	346
36. UNSUITABLE (SUBTOTAL: 37 + 39)	0	19	0	19	0	19
37. EXCESS DISTANCE	0	1	0	1	0	1
38. SUBSTANDARD	0	6	0	6	0	6
39. EXCESS COST ONLY	0	12	0	12	0	12
40. IN OWNER OCCUPIED TRAILERS (TOTAL: 41 + 42)	0	28	0	28	2	30
41. SUITABLE IN ALL RESPECTS (On Post:)	0	26	0	26	2	28
42. UNSUITABLE (Subtotal: 43 + 46) (On Post:)	0	2	0	2	0	2
43. EXCESS DISTANCE	0	1	0	1	0	1
44. SUBSTANDARD (On Post:)	0	0	0	0	0	0
45. EXCESS COST ONLY (On Post:)	0	1	0	1	0	1
46. IN RENTED HOUSING OFF POST (TOTAL: 47 + 48)	28	315	0	343	98	441
47. SUITABLE IN ALL RESPECTS	24	245	0	269	96	365
48. UNSUITABLE (SUBTOTAL: 49 + 51)	4	70	0	74	2	76
49. EXCESS DISTANCE	1	4	0	5	0	5
50. SUBSTANDARD	1	51	0	52	2	54
51. EXCESS COST ONLY	2	15	0	17	0	17
52. IN MILITARY CONTROLLED HOUSING (TOTAL: 53 + 57)	3	95	0	98	1	99
53. ADEQUATE AS PUBLIC QUARTERS (Vacant:)	3	95	0	98	1	99
54. MILITARY OWNED (Vacant:)	3	95	0	98	1	99
55. MILITARY LEASED (Vacant:)	0	0	0	0	0	0
56. MILITARY SPONSORED (Vacant:)	0	0	0	0	0	0
57. INADEQUATE AS PUBLIC QUARTERS (Vacant:)	0	0	0	0	0	0
58. VACANT HOUSING (TOTAL: 59 + 61)	3	9	0	12	0	12
59. PRIVATE RENTAL HOUSING	3	9	0	12	0	12
60. FHA AND VA HELD RENTAL HOUSING	0	0	0	0	0	0
61. MILITARY HOUSING ADEQUATE AS PUBLIC QUARTERS	0	0	0	0	0	0
62. NUMBER OF UNSUITABLE UNITS IDENTIFIED						

QUALITATIVE ANALYSIS OF REQUIREMENTS AND ASSETS

	EFFECTIVE REQUIREMENTS		SUITABLE HOUSING			DEFICIT (e - d)
	NUMBER a	PERCENT b	MIL. CONTROL c	OFF. POST d	TOTAL (c + d) e	
66. 0 - 10 THROUGH 0 - 6	5	.6%	1	4	5	0
67. 1 OR 2 BEDROOMS	2	.2%	0	1	1	1
68. 3 BEDROOMS	3	.4%	0	3	3	0
69. 4 OR MORE BEDROOMS	0	.0%	1	0	1	1-
70. 0 - 5 AND 0 - 4	24	2.9%	1	24	25	1-
71. 1 OR 2 BEDROOMS	11	1.3%	0	10	10	1
72. 3 BEDROOMS	7	.8%	1	8	9	2-
73. 4 OR MORE BEDROOMS	6	.7%	0	6	6	0
74. 0 - 3 THROUGH 0 - 1 AND W - 4 THROUGH W - 1	50	6.0%	1	46	47	3
75. 1 OR 2 BEDROOMS	28	3.3%	0	25	25	3
76. 3 BEDROOMS	16	1.9%	1	16	17	1-
77. 4 OR MORE BEDROOMS	6	.7%	0	5	5	1
78. ALL OFFICER GRADES (TOTAL: 66 + 70 + 74)	79	9.4%	3	74	77	2
79. 1 OR 2 BEDROOMS	41	4.9%	0	36	36	5
80. 3 BEDROOMS	26	3.1%	2	27	29	3-
81. 4 OR MORE BEDROOMS	12	1.4%	1	11	12	0
82. E - 8 THROUGH E - 7	208	24.8%	4	190	194	14
83. 1 OR 2 BEDROOMS	74	8.8%	0	78	78	4-
84. 3 BEDROOMS	81	9.6%	4	71	75	6
85. 4 OR MORE BEDROOMS	53	6.3%	0	41	41	12
86. E - 6 THROUGH E - 4 (Eligible)	333	63.8%	92	389	481	72
87. 1 OR 2 BEDROOMS	339	40.4%	74	253	327	12
88. 3 BEDROOMS	147	17.5%	18	90	108	39
89. 4 OR MORE BEDROOMS	67	8.0%	0	46	46	21
90. ALL ELIGIBLE ENLISTED (TOTAL: 82 + 86)	761	90.6%	96	579	675	86
91. 1 OR 2 BEDROOMS	413	49.2%	74	331	405	8
92. 3 BEDROOMS	228	27.1%	22	161	183	45
93. 4 OR MORE BEDROOMS	120	14.3%	0	87	87	33
94. ALL ELIGIBLE MILITARY (TOTAL: 78 + 90)	840	100.0%	99	633	732	88
95. 1 OR 2 BEDROOMS	434	54.0%	74	367	441	13
96. 3 BEDROOMS	254	30.2%	24	188	212	42
97. 4 OR MORE BEDROOMS	132	15.7%	1	98	99	33
98. KEY CIVILIANS - 0 EQUIVALENT	0	.0%	0	0	0	0
99. 1 OR 2 BEDROOMS	0	.0%	0	0	0	0
100. 3 BEDROOMS	0	.0%	0	0	0	0
101. 4 OR MORE BEDROOMS	0	.0%	0	0	0	0
102. KEY CIVILIANS - E EQUIVALENT	0	.0%	0	0	0	0
103. 1 OR 2 BEDROOMS	0	.0%	0	0	0	0
104. 3 BEDROOMS	0	.0%	0	0	0	0
105. 4 OR MORE BEDROOMS	0	.0%	0	0	0	0
106. ALL ELIGIBLE CATEGORIES (Total 94 + 98 + 102)	840	100.0%	99	633	732	88
107. 1 OR 2 BEDROOMS	434	54.0%	74	367	441	13
108. 3 BEDROOMS	254	30.2%	24	188	212	42
109. 4 OR MORE BEDROOMS	132	15.7%	1	98	99	33
110. E - 4 (Ineligible) - THROUGH E - 1		100.0%	0	98	98	7
111. 1 OR 2 BEDROOMS		90.5%	0	88	88	7
112. 3 BEDROOMS		8.8%	0	9	9	0
113. 4 OR MORE BEDROOMS		1.0%	0	1	1	0

114. REMARKS: 5 BEDROOM REQUIREMENTS

05 - 04 2
03 - W1 2
E9 - E7 14
E6 - E4 18

1 BEDROOM REQUIREMENTS

2
5
21
77

115. AUTHENTICATION	NAME AND TITLE	SIGNATURE	DATE
116. NAME AND LOCATION OF INSTALLATION: AFB GOODFELLOW AFB, TX			

DETERMINATION OF HOUSING REQUIREMENTS AND PROJECT COMPOSITION

REPORT CONTROL SYMBOL

DD IXL (A) 665

DERIVATION OF LONG-RANGE
HOUSING REQUIREMENTS

OFFICERS

ENLISTED MEN

OPERATIONAL

STUDENTS

OPERATIONAL

STUDENTS

CIVILIANS

TOTAL

1 TOTAL PERSONNEL STRENGTH	116	292	1659	378	247	1028	412	4132
2 PERMANENT PARTY HOUSING STRENGTH	116	100	1659	378	0	0	0	2253
3 HOUSING REQUIREMENTS FACTOR	74.5	74.5	73.4	31.6	48.5	23.0	.0	66.5
4 GROSS HOUSING REQUIREMENTS	86	75	1218	119	0	0	0	1498

DERIVATION OF LONG-RANGE HOUSING DEFICIT

	OFFICERS A	ELIGIBLE ENLISTED B	KEY CIVILIANS C	SUB-TOTAL (D + E)		OTHER ENLISTED F	TOTAL G
				NUMBER D	PERCENT E		
5 GROSS ELIGIBLE HOUSING REQUIREMENTS	161	1218	0	1379	100.0 %	119	1498
6 VOLUNTARILY SEPARATED FAMILIES	4	65	0	69	5.0	13	82
7 EFFECTIVE HOUSING REQUIREMENTS (7 Minus 6)	157	1153	0	1310	95.0	106	1416
8 (Programming Limit: 90 %)	143	1038	0	1181	85.5 %	95	1276
9 SUITABLE HOUSING ASSETS (7 Minus 8)	77	675	0	752	54.5 %	98	850
10 MILITARY CONTROLLED ASSETS (Subtotal: 11 - 13)	3	96	0	99	7.2 %		99
11 MILITARY OWNED-EXISTING	3	96	0	99	7.2 %		99
12 MILITARY OWNED - UNDER CONTRACT	0	0	0	0	.0 %		0
13 MILITARY OWNED - APPROVED	0	0	0	0	.0 %		0
14 MILITARY LEASED - EXISTING AND APPROVED	0	0	0	0	.0 %		0
15 OTHER (Specify:)	0	0	0	0	.0 %		0
16 NOT MILITARY CONTROLLED (Subtotal: 17 - 21)	74	579	0	653	47.4 %	98	751
17 CURRENTLY OCCUPIED - OWNED	47	325	0	372	27.0 %	2	374
18 CURRENTLY OCCUPIED - RENTED	24	245	0	269	19.5 %	96	365
19 CURRENTLY VACANT - PRIVATE FOR RENT	3	9	0	12	.9 %	0	12
20 CURRENTLY VACANT - FHA AND VA FOR RENT	0	0	0	0	.0 %	0	0
21 UNDER CONSTRUCTION OR FIRMLY PLANNED	0	0	0	0	.0 %	0	0
22 NET HOUSING DEFICIT (7 Minus 9)	80	478	0	558	40.5 %	8	566
23 (Programming Deficit 18 Minus 21)	66	363	0	429	31.0 %	-3	426

PROPOSED HOUSING INCREMENTS AND PROGRAMMING LEVELS

FISCAL YEAR 19	24 NEW CONSTRUCTION						
	25 OTHER (Specify:)						
	26 MILITARY PROGRAMMING LEVEL - NO. (19 + 24 + 25)						
	27 MILITARY PROGRAMMING LEVEL - PERCENT (26 + 3)						
	28 TOTAL PROGRAMMING LEVEL - NO. (6 + 9 + 24 + 25)						
FISCAL YEAR 19	29 TOTAL PROGRAMMING LEVEL - PERCENT (28 + 3)						
	30 NEW CONSTRUCTION						
	31 OTHER (Specify:)						
	32 MILITARY PROGRAMMING LEVEL - NO. (29 + 30 + 31)						
	33 MILITARY PROGRAMMING LEVEL - PERCENT (32 + 3)						
FISCAL YEAR 19	34 TOTAL PROGRAMMING LEVEL - NO. (28 + 30 + 31)						
	35 TOTAL PROGRAMMING LEVEL - PERCENT (34 + 3)						
	36 NEW CONSTRUCTION						
	37 OTHER (Specify:)						
	38 MILITARY PROGRAMMING LEVEL - NO. (32 + 36 + 37)						
FISCAL YEAR 19	39 MILITARY PROGRAMMING LEVEL - PERCENT (38 + 3)						
	40 TOTAL PROGRAMMING LEVEL - NO. (34 + 36 + 37)						
	41 TOTAL PROGRAMMING LEVEL - PERCENT (40 + 3)						
	42 NEW CONSTRUCTION						
	43 OTHER (Specify:)						
FISCAL YEAR 19	44 MILITARY PROGRAMMING LEVEL - NO. (38 + 42 + 43)						
	45 MILITARY PROGRAMMING LEVEL - PERCENT (44 + 3)						
	46 TOTAL PROGRAMMING LEVEL - NO. (40 + 42 + 43)						
	47 TOTAL PROGRAMMING LEVEL - PERCENT (46 + 3)						
FISCAL YEAR 19	48 NEW CONSTRUCTION						
	49 OTHER (Specify:)						
	50 MILITARY PROGRAMMING LEVEL - NO. (44 + 48 + 49)						
	51 MILITARY PROGRAMMING LEVEL - PERCENT (50 + 3)						
	52 TOTAL PROGRAMMING LEVEL - NO. (46 + 48 + 49)						
FISCAL YEAR 19	53 TOTAL PROGRAMMING LEVEL - PERCENT (52 + 3)						
	54 NAME AND LOCATION OF INSTALLATION	ATC GOODFELLOW AFB, TX					

30E 0

DETERMINATION OF HOUSING REQUIREMENTS AND PROJECT COMPOSITION

QUALITATIVE ANALYSIS OF REQUIREMENTS	REQUIREMENTS			SUITABLE HOUSING			PROGRAM DEFICIT (b Minus f)	FISCAL YEAR 18 PROJECT
	EFFECTIVE a	PERCENT b	PROGRAM LIMIT	MILITARY CONTROL d	OFF POST e	TOTAL (d + e) f		
56 0 - 10 THROUGH 0 - 6								
56 1 AND 2 BEDROOMS	10	.9	10	1	4	5	5	
57 3 BEDROOMS	4	.3	4	0	1	1	1	
58 4 OR MORE BEDROOMS	3	.2	3	0	3	3	0	
59 0 - 5 AND 0 - 4	3	.2	2	1	0	1	2	
60 1 AND 2 BEDROOMS	48	3.7	44	1	24	25	19	
61 3 BEDROOMS	15	1.1	14	0	10	10	4	
62 4 OR MORE BEDROOMS	20	1.9	18	1	8	9	9	
63 0 - 3 - 0 - 1 AND 0 - 4 - 0 - 1	13	1.0	12	0	6	6	6	
64 1 AND 2 BEDROOMS	99	7.8	89	1	46	47	42	
65 3 BEDROOMS	67	5.1	57	0	25	25	32	
66 4 OR MORE BEDROOMS	24	1.8	24	1	16	17	7	
67 OFFICERS - TOTAL	8	.6	8	0	5	5	3	
68 1 AND 2 BEDROOMS	157	12.0	143	3	74	77	66	
69 3 BEDROOMS	86	6.8	75	0	36	36	39	
70 4 OR MORE BEDROOMS	47	3.8	45	2	27	29	16	
71 E - 9 - E - 7	24	1.8	23	1	11	12	11	
72 1 AND 2 BEDROOMS	315	24.0	284	4	190	194	90	
73 3 BEDROOMS	108	8.2	77	0	78	78	-1	
74 4 OR MORE BEDROOMS	114	8.7	114	4	71	75	39	
75 E - 6 - E - 4 (Military)	93	7.1	93	0	41	41	52	
76 1 AND 2 BEDROOMS	838	64.0	754	92	389	441	273	
77 3 BEDROOMS	535	40.8	451	74	253	327	124	
78 4 OR MORE BEDROOMS	215	16.4	215	18	90	108	107	
79 ALL ELIGIBLE ENLISTED	88	6.7	88	0	46	46	42	
80 1 AND 2 BEDROOMS	1153	88.0	1038	96	579	675	363	
81 3 BEDROOMS	643	49.1	528	74	331	405	123	
82 4 OR MORE BEDROOMS	329	25.1	329	22	161	183	146	
83 ALL ELIGIBLE MILITARY	181	13.8	181	0	87	87	94	
84 1 AND 2 BEDROOMS	1310	.0	1181	99	653	752	429	
85 3 BEDROOMS	729	55.6	603	74	367	441	162	
86 4 OR MORE BEDROOMS	376	28.7	374	24	188	212	162	
87 KEY CIVL - 0 EQUIVALENT	205	15.8	204	1	98	99	105	
88 1 AND 2 BEDROOMS	0	.0	0	0	0	0	0	
89 3 BEDROOMS	0	.0	0	0	0	0	0	
90 4 OR MORE BEDROOMS	0	.0	0	0	0	0	0	
91 KEY CIVL - E EQUIVALENT	0	.0	0	0	0	0	0	
92 1 AND 2 BEDROOMS	0	.0	0	0	0	0	0	
93 3 BEDROOMS	0	.0	0	0	0	0	0	
94 4 OR MORE BEDROOMS	0	.0	0	0	0	0	0	
95 ALL ELIGIBLE CATEGORIES	0	.0	0	0	0	0	0	
96 1 AND 2 BEDROOMS	1310	100%	1181	99	653	752	429	
97 3 BEDROOMS	729	55.6	603	74	367	441	162	
98 4 OR MORE BEDROOMS	376	28.7	374	24	188	212	162	
99 E - 4 (Military) - E - 1	205	15.8	204	1	98	99	105	
100 1 AND 2 BEDROOMS	106	100%	95	0	98	98	-3	
101 3 BEDROOMS	96	90.7	86	0	48	48	-2	
102 4 OR MORE BEDROOMS	8	7.8	7	0	9	9	-2	
103 REMARKS (If more space is needed, continue on back)	2	1.8	2	0	1	1	1	

104 AUTHENTICATION	NAME AND TITLE (Typed or Stamped)	SIGNATURE	DATE
105 NAME AND LOCATION OF INSTALLATION ATC GOODFELLOW AFB, TX			

DD FORM 1 SEP 70 1378 MODIFIED FOR NCR 305 6

I. - MILITARY CONSTRUCTION ALTERNATIVE

YEARS	F.Y. YEAR	INFLATION FACTOR AT 0.04	CONSTRUCTION MCA	IMPACT AID MCA	40 ACQUISIT MAINT & REPAIR MCA	EQUIPMENT MCA	ALLOWANCES MCA	INSURANCE MCA	OPERATIONS MCA	RESID VALUE MCA	PROPERTY TAX MCA	TOTAL ANNUAL OUTLAYS	DISCOUNT FACTOR AT 9.6%	PRESENT VALUE	CUMULATIVE NPV
0	1987	1.000	6720719	0	202500	71500	567600	2400	21200		3260	7589173	1.000	7589173	7589173
1	1988	1.039	6720719	0		148277		4987	44054		3260	6211724	0.912	6315442	1390621
2	1989	1.074		0		154550		5157	45551		3260	5281761	0.832	172792	14078413
3	1990	1.105		0		159387		5306	40725		3260	455004	0.760	345407	14424000
4	1991	1.132		0		164803		5434	47707		3260	387307	0.693	265207	14781107
5	1992	1.158		0		169611	4516	5559	49101		3260	320173	0.633	201527	15081107
6	1993	1.185		0		174554	17088	5686	50331		3260	262337	0.577	150117	15331107
7	1994	1.212		0		179640	17650	5817	51286		3260	206232	0.526	100117	15581107
8	1995	1.240		0		184874	17650	5951	52568		3260	150490	0.480	60117	15831107
9	1996	1.268		0		190361	112627	6088	53777		3260	98490	0.438	20117	16081107
10	1997	1.297		0		195805		6228	55014		3260	41362	0.400	70117	16331107
11	1998	1.327		0		201510	5177	6371	56273		3260	25009	0.365	20117	16581107
12	1999	1.358		0		207382	161722	6518	57573		3260	18152	0.333	40117	16831107
13	2000	1.389		0		213424		6668	58938		3260	11159	0.304	10117	17081107
14	2001	1.421		0		219643	85689	6821	60352		3260	4136	0.277	10117	17331107
15	2002	1.454		0		226043		6978	61638		3260	21937	0.253	10117	17581107
16	2003	1.487		0		232629	130000	7138	63056		3260	11145	0.231	10117	17831107
17	2004	1.521		0		239408	27385	7303	64500		3260	67176	0.210	10117	18081107
18	2005	1.556		0		246384		7471	65940		3260	16176	0.192	10117	18331107
19	2006	1.592		0		253563		7642	67507		3260	578458	0.175	110006	18581107
20	2007	1.629		0		260951	98215	7818	69060		3260	1518771	0.160	40117	18831107

II. - SECTION 801 LEASE HOUSING ALTERNATIVE

YEARS	F.Y. YEAR	INFLATION FACTOR AT 0.04	801 LEASE 801 (02)	MAINT & REPAIR 801 (06)	FED TAX GAIN 801 (08)	R. E. TAXES 801 (10)	ALLOWANCES 801 (11)	ACRS DEP ADV 801 (16)	GOVERNMENT ADMINISTRATION	TOTAL PAYMENT	DISCOUNT FACTOR AT 9.6%	NET PRESENT VALUE	CUMULATIVE NPV
0	1987		549542	106497					6560	1230198	1.000	1230198	1230198
1	1988	1.039	1099083	221300				463730	13632	177745	0.912	1640370	2870476
2	1989	1.074	1099083	228824				401899	14096	1743902	0.832	1451700	4322257
3	1990	1.105	1099083	235460				340068	14505	1700758	0.760	1291847	5614103
4	1991	1.132	1099083	241111				278238	14833	1656305	0.693	1147815	6761918
5	1992	1.158	1099083	246656				216407	15194	1611932	0.633	1019281	7781199
6	1993	1.185	1099083	252329				154577	15544	1530353	0.577	940571	8721770
7	1994	1.212	1099083	258133				134577	15901	1487541	0.526	835701	9557472
8	1995	1.240	1099083	264070				119820	16267	1407498	0.480	722006	10329550
9	1996	1.268	1099083	270144				103047	16641	1328132	0.438	613283	11063147
10	1997	1.297	1099083	276357				87887	16941	1250887	0.400	509783	11782930
11	1998	1.327	1099083	282713				71920	17241	1178008	0.365	410381	12313212
12	1999	1.358	1099083	289216				55577	17416	1100887	0.333	316726	12877938
13	2000	1.389	1099083	295868				40189	17591	1028008	0.304	224013	13381951
14	2001	1.421	1099083	302673				27824	17766	955507	0.277	138466	13848337
15	2002	1.454	1099083	309634				19561	17941	884118	0.253	60484	14281981
16	2003	1.487	1099083	316756				13746	18116	812498	0.231	43384	14683570
17	2004	1.521	1099083	324041				92746	18286	740805	0.210	301589	15056212
18	2005	1.556	1099083	331494				82746	18465	669405	0.192	21589	15482157
19	2006	1.592	1099083	339118				72746	18641	597405	0.175	145945	15860135
20	2007	1.629	1099083	346918				62746	18818	525405	0.160	77977	16239312
								-154577	21371	-2757245		-440823	
												15239312	

I. MILITARY CONSTRUCTION ALTERNATIVE

[illegible]

SECTION 801 LEASE HOUSING ALTERNATIVE

[illegible]

I. MAINTENANCE, REPAIR AND REPLACEMENT ALTERNATIVE

YEAR	C.Y. YEAR	INFLATION FACTOR AT 0.0%	CONSTRUCTION MCA	MAINT & REPAIR TAX GAIN R. E. TAXES	ALLIANCE	ACRS DEPR DIV	GOVERNMENT	OPERATIONS MCA	RESID VALUE MCA	PROPERTY TAX MCA	TOTAL ANNUAL OUTLAYS	DISCOUNT FACTOR AT 9.0%	NET PRESENT VALUE	CUMULATIVE NPV
0	1987	1.000	6730719	0.500	71500	0.000	0.000	0.000	0.000	0.000	7509179	1.000	7509179	7509179
1	1988	1.039	0	0	148577	0	0	4987	0	3367	6921724	0.912	6315442	13004021
2	1989	1.074	0	0	154550	0	0	5157	0	3503	208761	0.832	173792	14078413
3	1990	1.105	0	0	159307	0	0	5306	0	24838	455004	0.760	345607	1424020
4	1991	1.132	0	0	164809	0	0	5434	0	48666	466907	0.693	305237	1474705
5	1992	1.158	0	0	169611	0	0	5559	0	49101	480173	0.632	263113	15051132
6	1993	1.185	0	0	174354	0	0	5686	0	50331	490707	0.577	230115	15336245
7	1994	1.212	0	0	179640	0	0	5817	0	51306	500418	0.526	200153	15610060
8	1995	1.240	0	0	184874	0	0	5951	0	52568	510478	0.480	173815	15893678
9	1996	1.268	0	0	190361	0	0	6088	0	53777	520133	0.438	150966	16174744
10	1997	1.297	0	0	195005	0	0	6224	0	55017	530063	0.400	131674	16461744
11	1998	1.327	0	0	201510	0	0	6371	0	56273	540063	0.365	115633	16751120
12	1999	1.358	0	0	207382	0	0	6514	0	57573	550903	0.333	101485	17040605
13	2000	1.389	0	0	213434	0	0	6668	0	58898	561829	0.304	89485	17330712
14	2001	1.421	0	0	219643	0	0	6821	0	60252	572845	0.277	79241	17621902
15	2002	1.454	0	0	226043	0	0	6970	0	61638	583996	0.253	70192	17914902
16	2003	1.487	0	0	232629	0	0	7118	0	63066	595396	0.231	62190	18209902
17	2004	1.521	0	0	239408	0	0	7263	0	64506	607048	0.210	55190	18506902
18	2005	1.556	0	0	246384	0	0	7411	0	65990	618958	0.192	49188	18805902
19	2006	1.592	0	0	253563	0	0	7557	0	67507	631118	0.175	44188	19106902
20	2007	1.629	0	0	260951	0	0	7708	0	69060	643648	0.160	40188	19409902

II. SECTION 801 LEASE HOUSING ALTERNATIVE

YEAR	P.Y. YEAR	INFLATION FACTOR AT 0.0%	801 LEASE	MAINT & REPAIR TAX GAIN R. E. TAXES	ALLIANCE	ACRS DEPR DIV	GOVERNMENT	TOTAL PAYMENT	DISCOUNT FACTOR AT 9.0%	NET PRESENT VALUE	CUMULATIVE NPV
0	1987	1.000	543542	0.500	567600	0	0	1230198	1.000	1230198	1230198
1	1988	1.039	1099083	0	0	0	0	1334015	0.912	121167	2447366
2	1989	1.074	1099083	0	0	0	0	144006	0.832	1117304	3564569
3	1990	1.105	1099083	0	0	0	0	154905	0.760	1032540	4598110
4	1991	1.132	1099083	0	0	0	0	166033	0.693	954985	5553095
5	1992	1.158	1099083	0	0	0	0	177455	0.632	882439	6435534
6	1993	1.185	1099083	0	0	0	0	189184	0.577	815715	7251249
7	1994	1.212	1099083	0	0	0	0	201229	0.526	754330	8005580
8	1995	1.240	1099083	0	0	0	0	213593	0.480	697843	8703422
9	1996	1.268	1099083	0	0	0	0	226276	0.438	645848	9349271
10	1997	1.297	1099083	0	0	0	0	239288	0.400	597976	9947247
11	1998	1.327	1099083	0	0	0	0	252629	0.365	553888	10501135
12	1999	1.358	1099083	0	0	0	0	266306	0.333	513272	11014408
13	2000	1.389	1099083	0	0	0	0	280329	0.304	475845	11490253
14	2001	1.421	1099083	0	0	0	0	294706	0.277	441345	11931598
15	2002	1.454	1099083	0	0	0	0	309447	0.253	409334	12341132
16	2003	1.487	1099083	0	0	0	0	324563	0.231	380193	12721335
17	2004	1.521	1099083	0	0	0	0	340063	0.210	353121	13074446
18	2005	1.556	1099083	0	0	0	0	355958	0.192	328134	13402580
19	2006	1.592	1099083	0	0	0	0	372263	0.175	305063	13707643
20	2007	1.629	1099083	0	0	0	0	389008	0.160	283755	13991398



**US Army Corps
of Engineers**
Fort Worth District

SECTION 801 MILITARY HOUSING

LEASING PROGRAM

ECONOMIC ANALYSIS

FORT HOOD

TEXAS

Summary of Analysis and OMB/OSD revisions at Tab A
(Entered by OSD, 9/8/86)

This analysis was developed in accordance with the ground rules and discount rate coordinated with OMB National Security Staff in February 1986, and confirmed by OSD memorandum of 3 April 1986. The results of the bid proposals utilizing the 3 April ground rules are:

	<u>Ft Hood</u>
Net present value of the MILCON alternative	\$15,716,058
Net present value of the 801 alternative	\$14,408,656
801 savings versus MILCON (%)	7%

During OMB review of three Navy 801 projects in July 1986 one assumption of this and all previously OMB approved analyses was ruled incorrect. The ruling was made after the government had solicited proposals and designs from contractors and agreed to lease ceilings with Congress. The change involved the assumption of sale of the 801 project after 20 years and resulting capital gains tax payable by the 801 developer. Previously this tax was subtracted from the 801 proposal as a gain to the government. The new view is that the taxes arising from the sale of the project represent a loss to the government amounting to the difference between the tax due at regular income rates and that due at the favorable capital gains rate. Because of this the assumption of sale was dropped lowering the amount of savings for each 801 proposal. Tab A of the attached analysis is based on the assumption of no sale of the 801 project with results as listed below.

	<u>Ft Hood</u>
Net present value of the MILCON alternative	\$15,716,058
Net present value of the 801 alternative	\$15,244,233
801 savings versus MILCON (%)	3%

The new tax legislation will not affect this proposal as the project is on base where accelerated depreciation rates do not apply.

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I. EXECUTIVE SUMMARY

A. The Decision Objective

The objective of this study is to determine if a proposed military lease housing program is a cost effective means of providing adequate housing for 300 military personnel at Fort Hood, TX when compared to military construction.

B. Background

Section 801 of the Military Construction Authorization Act of 1984 authorized several pilot studies to determine the cost effectiveness of a lease program to obtain additional housing facilities. Fort Hood, TX was one of the locations selected for this pilot program. These housing facilities would be available for beneficial occupancy in FY 88.

Major provisions set forth in this program are as follows:

- * Occupants would forfeit Basic Allowances for Quarters (BAQ) and Variable Housing Allowances (VHA) in return for assigned quarters.
- * The Government would pay all rent, utilities and administrative costs.
- * The program cannot be applied to existing housing.
- * The new housing units are required to be constructed in conformance with DOD specifications.
- * Upon termination of the lease agreement, the Government would have the right to acquire all right, title, and interest in the leased housing facilities.
- * The leasing agreement cannot exceed 20 years.
- * A validated deficit in military housing must exist in the general area.
- * Use of military controlled housing must have exceeded 97 percent occupancy for 18 consecutive months preceding an agreement.
- * Priority shall be given to military families.
- * The new housing units may be built on private or Government owned land.

C. Major Assumptions

1. The structure life for MCA construction is assumed to be 40 years.

2. New housing would be constructed on Government owned land.

3. In order to facilitate the estimate of implied residual value (MCA Program), it is assumed that a demand for the housing facilities will exist beyond the analysis period (FY 2006).

4. A scheduled beneficial occupancy date (BOD) will be set to occur upon completion and acceptance of the housing project by the Government in FY 88.

5. The 801 Program assumed 40 year straight line depreciation with no preferential tax treatment.

6. That the owner/developer of the 801 Housing will retain ownership of the project for the 20 year lease term and then sell the project to a non-Government buyer. The sale is assumed to be completed at the end of the last fiscal year of the analysis period.

Methodology

1. A current dollar analysis was performed, and present value calculations utilized a discount rate of 9.6 percent (per OMB and OSD guidelines).

2. All costs are estimated in FY 86 prices (current dollars).

3. Expense elements which would be the same for either alternative are considered wash costs, and are not included in the comparative cost analysis.

4. The length of the analysis period is 21 years (FY 86 through FY 06).

E. Alternative Courses of Action

Two potential housing alternatives for Fort Hood, TX are analyzed herein:

1. MCA Program. Construction of 300 new family housing units over a 2 year period from FY 86 to FY 88, with scheduled BOD of mid FY 88.

2. 801 Build-to-Lease Program. The Army would enter into a long-term agreement to lease 300 rental units to be constructed by a private developer with scheduled BOD of mid FY 88. Specific provisions of the agreement were previously described in paragraph B above. The rental units would be located on private land.

F. Economic Analysis Results

	NET PRESENT VALUE	UNIFORM ANNUAL COST
801	\$14,408,656	\$1,619,469
MCA	\$15,716,058	\$1,766,416

These analyses reveal that the least costly viable alternative to meet Fort Hood's housing needs would be through the Section 801 Build-to-Lease Program. The advantages and disadvantages of each alternative are summarized in Table 1.

TABLE 1
COMPARISON OF HOUSING ALTERNATIVES

<u>Element</u>	<u>Alternatives</u>	
	<u>MCA Construction</u>	<u>Build-to-Lease</u>
Net Present Value	disadvantage	advantage
Initial Government outlay	disadvantage	advantage
Recurring O&M costs	approx equal	approx equal
Adds to available housing assets	equal	equal
Insures housing services obtainable for 20 years	equal	equal
Availability of housing services after 20 years	advantage	disadvantage
Time required to implement alternative	approx equal	approx equal

G. Sensitivity Analysis Results

This economic analysis requires that certain assumptions and judgements be applied to the development of the various cost elements. Sensitivity tests were performed to determine what changes would be required in each cost element to produce a different ranking of the housing alternatives. If slight changes in an estimated cost item would alter the ranking of alternatives, the analysis is said to be "sensitive" to that variable. The results of this analysis are shown later in Tables 4 and 5, and are described in paragraph II.D.2.

H. Nonmonetary Factors

Using the results of this analysis as the only selection criteria suggests that the lease alternative is the best choice. The 801 Leasing Program and the MCA alternatives are equivalent and comparable in that each would satisfy the objectives of providing adequate housing services.

I. Recommended Course of Action

It is felt that the requirement to provide needed Government housing services for enlisted personnel at Fort Hood, TX can best be accomplished through the 801 Build-to-Lease Program. As indicated in paragraph II.B., there are insufficient existing community assets to

permit individual service members to readily acquire needed housing in the local area. Without any increases in available community assets, greater demand for off-post housing would most certainly have varying undesirable community impacts. The 801 Lease Program is the least costly feasible alternative and would best serve the Army housing requirements at Fort Hood.

II. Detailed Summary

A. Background

Fort Hood is the home post for the III Corps, 1st Cavalry Division, 2nd Armored Division, 13th Support Command, 6th Cavalry Brigade, other Corps supporting units and tenant units. North Fort Hood also serves as the major training area for Texas National Guard and other reserve components.

The main cantonment area for Fort Hood is situated at the west end of the Killeen-Temple metroplex (Bell and Coryell counties) in central Texas. The 1980 population of the surrounding area which encompasses Bell, Coryell and Lampasas counties was 226,661. An area map depicting the area is located at Figure 1.

In area cities, the communities with the greatest growth are adjacent to Fort Hood's main cantonment area. Over the 30 year period from 1950 to 1980, the populations of Killeen and Copperas Cove annually increased by 7 percent and 10 percent, respectively, as compared to 2 percent for Temple, which is 21 miles from the post.

The 1980 SMSA population totaled 214,656 with 74 percent residing in Bell County. Over half (56 percent) of Bell County inhabitants live in Killeen (29 percent) and Temple (27 percent). Copperas Cove is the largest city in Coryell county with more than 34 percent of the county's residents.

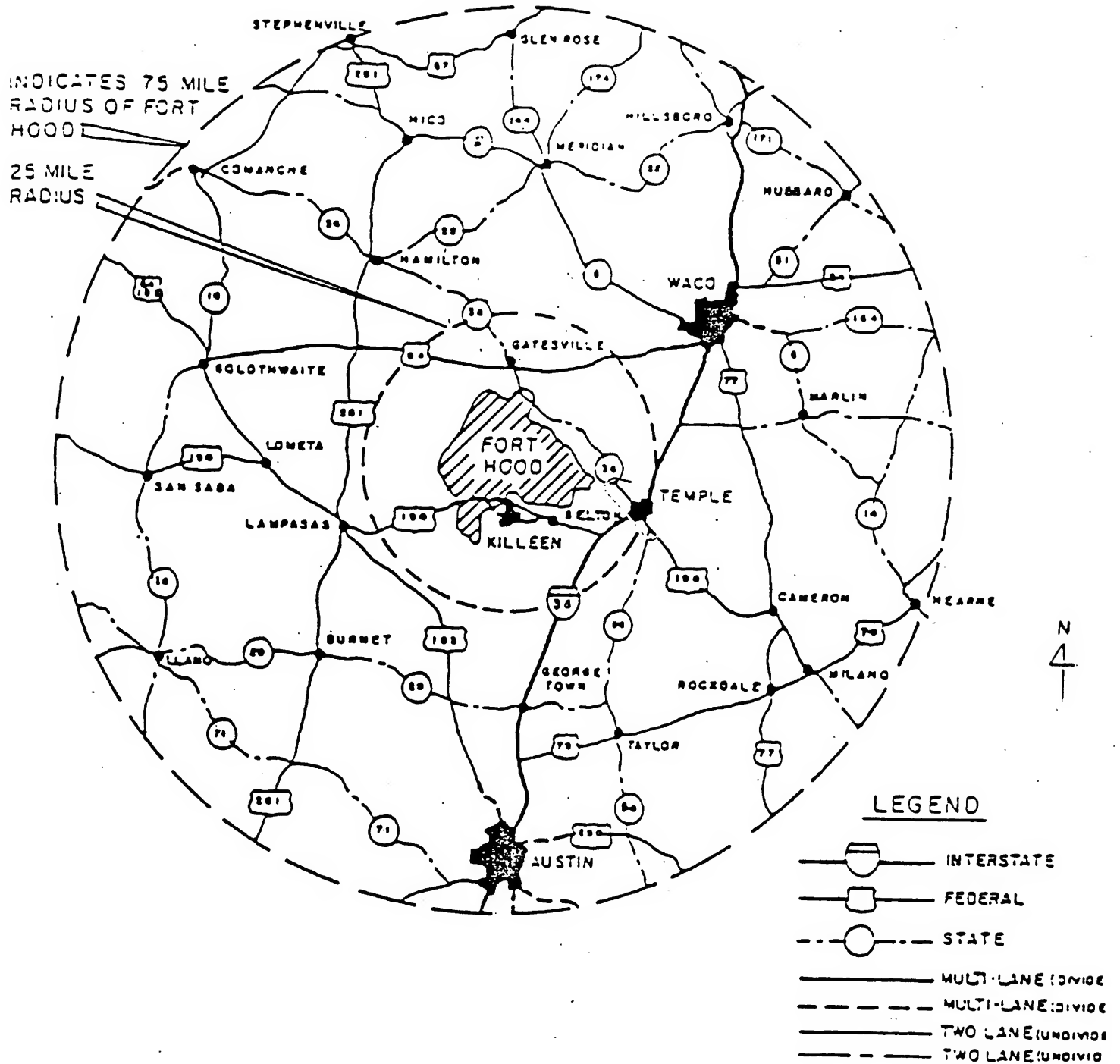
B. Housing Requirement

Pertinent housing statistics on Fort Hood contained in the most recent DD Forms 1377, 1378, and 1379 are included in Appendix C. Summary information extracted from DD Form 1377 is presented in Table 2.

TABLE 2
HOUSING REQUIREMENT

Item	Existing Enlisted Grade Assets Accompanied (E-4 thru E-5)
Effective requirement	11,574
Military housing	(3,365)
Off-post housing	(7,399)
Surplus/deficit	810

FIGURE 1



FORT HOOD, TEXAS
AREA MAP

Figure II-1

C. Calculations for Each Alternative

1. Figure 2 depicts project summary data.

2. A year-by-year display of the calculation results for the two alternatives is shown in Table 3 (Project/Program Costs). For each alternative, the table shows, in current 1986 dollars, the following items on an annual basis over the 21-year analysis period.

- a. The estimated amount for each expense element.
- b. The total of all expense elements ("TOTAL ANNUAL OUTLAYS").
- c. The present value of all expense elements ("NET PRESENT VALUE").
- d. The present value of all expense elements through indicated year ("CUMULATIVE NET PRESENT VALUE").
- e. The cumulative present value of costs through given year less present value of residual for given year ("CUMULATIVE NET DISCOUNTED P.V.").
- g. The annualized cost (equivalent uniform annual amount for the 21-year period of analysis).

Figure 3 (Comparison Plot) graphically depicts in cumulative net present worth values of outlays for the two alternative throughout the period of analysis.

FIGURE 2

PROJECT SUMMARY DATA

GENERAL DATA

LOCATION	FORT HOOD, TX
NUMBER OF UNITS	300
STARTING FY	1986
DISCOUNT RATE	9.6%
INFLATION RATE	OMB/OSD

MCA DATA

CONSTRUCTION COST	\$17,079,000
M&R COST	\$917/UNIT (1st YEAR)
	\$1,160/UNIT (20th YEAR)
EQUIPMENT	
SERVICE	\$15/UNIT/YR
REPLACEMENT	\$1,026 (10th Yr)
IMPUTED INSURANCE	\$35/UNIT
SERVICES	\$153/UNIT/YR
RESIDUAL VALUE	
DETERIORATION FACTOR	.72197
INFLATION	1.619
ADMINISTRATION	\$64,100/YR

LEASE DATA

SHELTER RENT	\$1,312,500
MAINTENANCE RENT	\$ 454,730
PROPOSED BUILDING COST	\$17,079,000
REAL ESTATE TAX RATE	.01377 X ASSESSED VALUE
REAL ESTATE TAX INCREASE	80%
CAPITAL GAINS TAX RATE	28%

RESULTS

MCA NPV	\$15,716,058
801 NPV	\$14,408,656

TABLE 3

YEAR	PROJECT/PROGRAM COSTS					DISCOUNTED PRESENT VALUE	CUMULATIVE NET DISC P.V.
	SHELTER RENT (01)	MAINTENANCE RENT (02)	PAYABLE R.E. TAX INCREASE (03)	FEDERAL TAX GAIN (04)	TOTAL ANNUAL OUTLAYS		
1986	\$0	\$0	\$0	\$0	\$0	\$0	\$0
1987	\$923,645	\$169,635	\$0	\$0	\$1,092,280	\$951,959	\$951,959
1988	\$1,539,409	\$290,054	\$0	\$0	\$1,829,463	\$1,454,780	\$2,406,739
1989	\$1,539,409	\$298,176	\$0	\$0	\$1,837,585	\$1,333,246	\$3,739,986
1990	\$1,539,409	\$305,332	\$5,086	\$0	\$1,849,827	\$1,224,570	\$4,964,556
1991	\$1,539,409	\$312,354	\$10,077	\$0	\$1,861,840	\$1,124,564	\$6,089,121
1992	\$1,539,409	\$319,539	\$15,183	\$0	\$1,874,131	\$1,032,835	\$7,121,957
1993	\$1,539,409	\$326,888	\$20,406	\$0	\$1,886,703	\$948,690	\$8,070,647
1994	\$1,539,409	\$334,406	\$25,749	\$0	\$1,899,564	\$871,494	\$8,942,141
1995	\$1,539,409	\$342,098	\$31,216	\$0	\$1,912,723	\$800,666	\$9,742,808
1996	\$1,539,409	\$349,966	\$36,807	\$0	\$1,926,182	\$735,676	\$10,478,484
1997	\$1,539,409	\$358,015	\$42,528	\$0	\$1,939,952	\$676,035	\$11,154,520
1998	\$1,539,409	\$366,250	\$48,380	\$0	\$1,954,039	\$621,299	\$11,775,820
1999	\$1,539,409	\$374,673	\$54,367	\$0	\$1,968,449	\$571,060	\$12,346,881
2000	\$1,539,409	\$383,291	\$60,491	\$0	\$1,983,191	\$524,942	\$12,871,823
2001	\$1,539,409	\$392,107	\$66,757	\$0	\$1,998,273	\$482,604	\$13,354,427
2002	\$1,539,409	\$401,125	\$73,166	\$0	\$2,013,700	\$443,732	\$13,798,159
2003	\$1,539,409	\$410,351	\$79,723	\$0	\$2,029,483	\$408,038	\$14,206,197
2004	\$1,539,409	\$419,789	\$86,431	\$0	\$2,045,629	\$375,259	\$14,581,457
2005	\$1,539,409	\$429,444	\$93,293	\$0	\$2,062,146	\$345,154	\$14,926,612
2006	\$1,539,409	\$439,321	\$100,312	-\$5,470,674	-\$3,391,631	-\$517,955	\$14,408,656

UNIFORM ANNUAL EQUIVALENT = \$1,619,469 (9.60% DISCOUNT RATE, 21 YEARS)

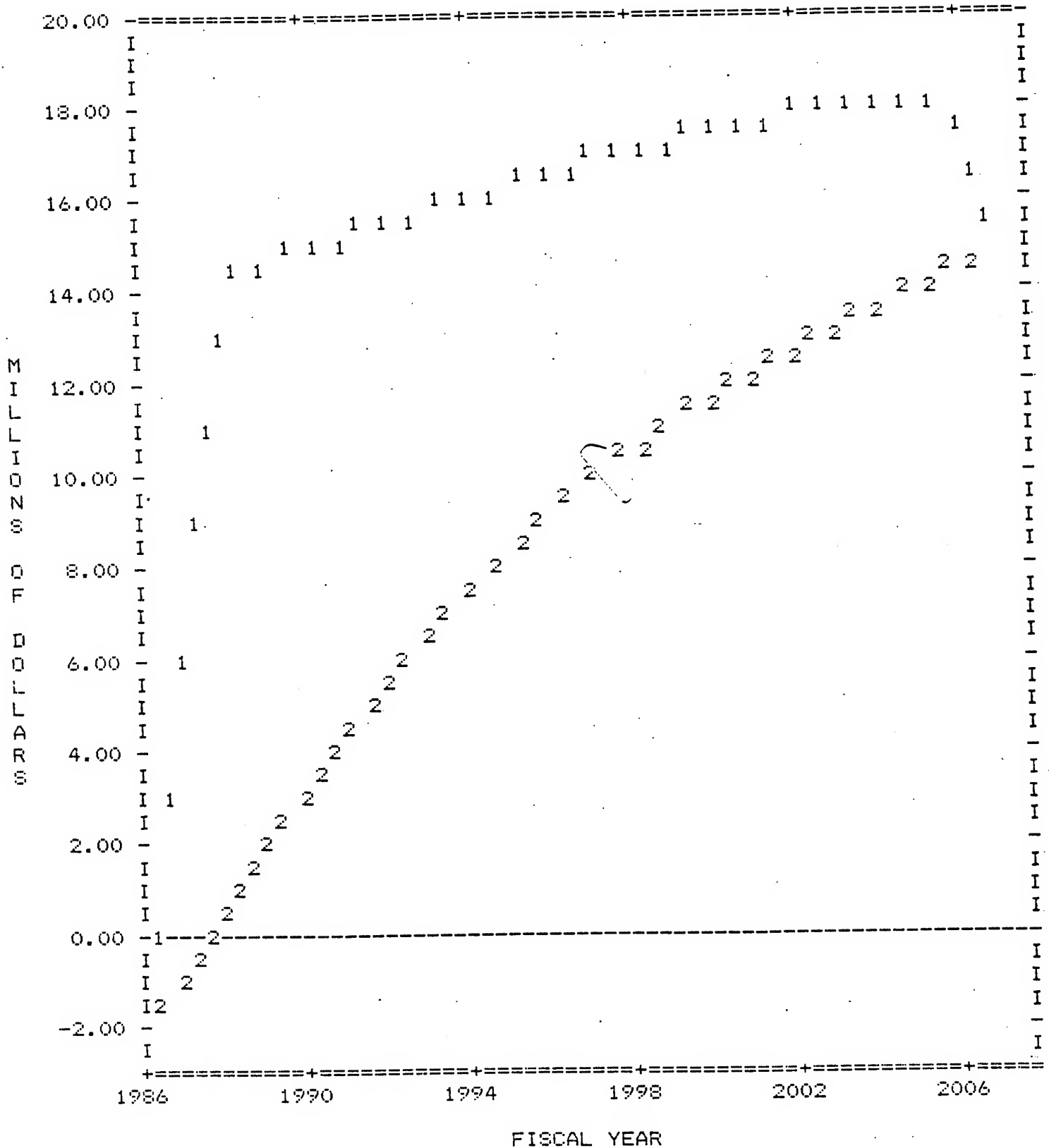
TABLE 3

YEAR	PROJECT/PROGRAM COSTS					PAGE 001			PAGE 002		
	INITIAL CONSTRUCTION COSTS (01)	MAINTENANCE AND REPAIR COSTS (02)	EQUIPMENT COSTS (03)	IMPUTED INSURANCE COSTS (04)	RESIDUAL VALUE (05)	SERVICES (06)	ADMIN COSTS (07)	TOTAL ANNUAL OUTLAYS	DISCOUNTED PRESENT VALUE	CUMULATIVE NET DISC P.V.	
1986	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
1987	\$10,247,400	\$163,380	\$2,330	\$6,526	\$0	\$29,687	\$39,844	\$10,494,170	\$9,146,022	\$9,146,022	
1988	\$6,831,600	\$294,194	\$4,811	\$11,226	\$0	\$51,062	\$63,532	\$7,261,426	\$5,774,250	\$14,920,272	
1989	\$0	\$307,140	\$4,945	\$11,540	\$0	\$52,492	\$70,451	\$446,570	\$324,006	\$15,244,278	
1990	\$0	\$319,333	\$5,064	\$11,817	\$0	\$53,752	\$72,142	\$462,109	\$305,912	\$15,550,191	
1991	\$0	\$331,610	\$5,181	\$12,089	\$0	\$54,988	\$73,501	\$477,670	\$288,516	\$15,838,707	
1992	\$0	\$344,282	\$5,300	\$12,367	\$0	\$56,253	\$75,499	\$493,702	\$272,080	\$16,110,788	
1993	\$0	\$357,363	\$5,422	\$12,651	\$0	\$57,547	\$77,235	\$510,219	\$256,553	\$16,367,341	
1994	\$0	\$370,777	\$5,546	\$12,942	\$0	\$58,870	\$79,012	\$527,149	\$241,848	\$16,609,190	
1995	\$0	\$384,795	\$5,674	\$13,240	\$0	\$60,224	\$80,829	\$544,764	\$228,038	\$16,837,229	
1996	\$0	\$399,171	\$5,804	\$13,544	\$0	\$61,609	\$82,688	\$562,820	\$214,960	\$17,052,189	
1997	\$0	\$414,006	\$6,075	\$13,856	\$0	\$63,026	\$84,590	\$581,671	\$202,093	\$17,254,283	
1998	\$0	\$429,311	\$6,075	\$14,175	\$0	\$64,476	\$86,535	\$600,574	\$190,956	\$17,445,239	
1999	\$0	\$445,102	\$6,214	\$14,501	\$0	\$65,959	\$88,526	\$620,304	\$179,954	\$17,625,193	
2000	\$0	\$461,392	\$6,357	\$14,834	\$0	\$67,476	\$90,562	\$640,623	\$169,570	\$17,794,764	
2001	\$0	\$478,196	\$6,503	\$15,175	\$0	\$69,028	\$92,645	\$661,549	\$159,771	\$18,094,535	
2002	\$0	\$495,528	\$6,653	\$15,524	\$0	\$70,616	\$94,775	\$683,099	\$150,525	\$18,245,061	
2003	\$0	\$513,405	\$6,806	\$15,881	\$0	\$72,240	\$96,955	\$705,290	\$141,802	\$18,386,863	
2004	\$0	\$531,843	\$6,963	\$16,247	\$0	\$73,901	\$99,185	\$728,141	\$133,573	\$18,520,436	
2005	\$0	\$550,856	\$7,123	\$16,620	\$0	\$75,601	\$101,467	\$751,669	\$125,811	\$18,646,248	
2006	\$0	\$570,463	\$7,287	\$17,003	-\$19,963,120	\$77,340	\$103,800	-\$19,187,224	-\$2,930,190	\$15,716,053	

UNIFORM ANNUAL EQUIVALENT = \$1,766,416 (9.60% DISCOUNT RATE, 21 YEARS)

FIGURE 3

ECONOMIC ANALYSIS COMPARISON PLOT CUMULATIVE NET PRESENT VALUE



LEGEND	DESCRIPTION	
1	ARMY FAMILY HOUSING	10
2	SO1	

D. Sensitivity Analysis

1. Introduction

Sensitivity analyses were conducted primarily to determine the extent to which the study findings would be affected by altering the input data. Since varying levels of certainty and confidence apply to the assumptions, changes were made in each of the key assumptions to determine their sensitivity on the ranking of alternatives.

2. Sensitivity Test Results

Comparison of the two alternatives revealed that the least costly option would be the 801 Build-to-Lease Program. A number of sensitivity tests were performed for the two options. As a result, four variables were identified to be somewhat sensitive to cost changes.

Comparison of the alternatives revealed that MCA construction would become the least cost alternative if:

- * the construction cost was reduced by 9.18% from \$17,079,000 to \$15,511,148.

- * the Shelter Rent was increased by 43.75% from \$1,312,000 to \$1,886,719.

- * the Maintenance Rent was increased by 10.64% from \$454,730 to \$503,113.

- * the maintenance and repair was reduced by 48.83% from \$275,166 to \$140,802.

The result of these analyses are submitted in Table 4

TABLE 4

CHANGES IN COST ELEMENTS TO RANK
MCA CONSTRUCTION AS LEAST COSTLY

<u>Cost Elements</u>	<u>Required Changes</u> (Percent)
Construction Cost	-9.18
Maintenance and Repair	-43.75
R.E. Tax Rate	Insensitive
Shelter Rent	10.64
Maintenance Rate	48.83

Table 5 summarizes the calculation results for cumulative net discounted present value for each of the 21 years of the period of analysis.

TABLE 5

SUMMARY OF CALCULATION RESULTS PAGE 1
NET DISCOUNTED PRESENT VALUE

PROVIDE 300 HOUSING UNITS AT FT. HOOD

ALTERNATIVE -----	FY1986 -----	FY1987 -----	FY1988 -----
ARMY FAMILY HOUSING	\$0	\$9,146,022	\$14,920,272
801	\$0	\$951,959	\$2,406,739

ALTERNATIVE -----	FY1989 -----	FY1990 -----	FY1991 -----
ARMY FAMILY HOUSING	\$15,244,278	\$15,550,191	\$15,838,707
801	\$3,739,986	\$4,964,556	\$6,089,121

ALTERNATIVE -----	FY1992 -----	FY1993 -----	FY1994 -----
ARMY FAMILY HOUSING	\$16,110,788	\$16,367,341	\$16,609,190
801	\$7,121,957	\$8,070,647	\$8,942,141

ALTERNATIVE -----	FY1995 -----	FY1996 -----	FY1997 -----
ARMY FAMILY HOUSING	\$16,837,229	\$17,052,189	\$17,394,283
801	\$9,742,808	\$10,478,484	\$11,154,520

ALTERNATIVE -----	FY1998 -----	FY1999 -----	FY2000 -----
ARMY FAMILY HOUSING	\$17,585,239	\$17,765,193	\$17,934,764
801	\$11,775,820	\$12,346,881	\$12,871,823

ALTERNATIVE -----	FY2001 -----	FY2002 -----	FY2003 -----
ARMY FAMILY HOUSING	\$18,094,535	\$18,245,061	\$18,386,863
801	\$13,354,427	\$13,798,159	\$14,206,197

ALTERNATIVE -----	FY2004 -----	FY2005 -----	FY2006 -----
ARMY FAMILY HOUSING	\$18,520,436	\$18,646,248	\$15,716,058
801	\$14,581,457	\$14,926,612	\$14,408,656

** UNIFORM ANNUAL EQUIVALENTS **

1. ARMY FAMILY HOUSING	\$1,766,416
2. 801	\$1,619,469

E. Methodology and Assumptions

1. General

Investigations were made to determine the cost elements which should be addressed in the two alternatives investigated. The development of cost estimates is detailed in Appendix A of this report. Calculations were performed to estimate the present value of the stream of future expenditures required for the implementation of each alternative. Computer outputs were then generated which display the projected cost per year with estimated inflationary effects (current 1986 dollar analysis), present value per year, cumulative present value per year, and cumulative present value net of residual (terminal, or salvage value) for each year. Cost elements considered are shown at Table 6.

TABLE 6
SUMMARY OF COST ELEMENTS

<u>Cost Elements</u>	<u>Alternatives</u>	
	<u>MCA Construction</u>	<u>Build to Lease</u>
Construction Cost	X	
Payment of Allowances (BAQ, VHA)	W	W
Maintenance and Repair	X	
Equipment	X	
Imputed Insurance	X	
801 Lease Cost (SR, MR)		X
Real Estate Tax Increase (80%)		X
Utilities	W	W
Land Value	W	W
Administration	X	
Residual Value	X	
Services	X	

X-Calculated and used in the analysis

W-Considered a wash

2. Assumptions

a. A discount rate of 9.6 percent is applied (per OMB and OSD guidelines) to determine the present value of current dollar expenditures.

b. Discount calculations for expense elements were performed using mid-year convention.

c. Price level changes due to inflation are included in this analysis. OMB/OSD inflation rate guidelines are utilized on all applicable cost items. Initial input cost element variables are based on various price levels. All cost elements are adjusted to reflect FY 86 price levels using the inflation rate guidelines presented in Appendix B of this report.

d. The most probable structure life for the MCA construction alternative is estimated at 40 years for the purpose of calculating a residual value at the end of the period of analysis. This residual value is computed using the building decay-obsolescence schedule contained in Appendix B of OMB circular A-104.

e. Residual value is considered in the analysis (See Appendix A.).

f. Expense elements which would be the same (ie: utilities costs) are considered "wash" costs and are not included in the comparative cost analysis.

g. The length of the analysis period is 21 years (FY 86 through FY 2006).

h. New housing would be constructed on Government-owned land.

i. The 801 Program assumes 18-year accelerated depreciation with preferential tax treatment.

j. A market value/demand for the housing facilities was assumed to exist beyond analysis period (2006) to estimate implied value.

k. A scheduled BOD set to occur upon completion and acceptance of the entire project by the Government in FY 88.

l. That the owner/developer of the 801 Housing will retain ownership of the project for the 20 year lease term and then sell the project to a non-Government buyer. The sale is assumed to be completed at the end of the last fiscal year of the analysis period.

APPENDIX A

DETAILED COST ELEMENT BUILD-UP

I. Introduction.

This section of the report describes the procedures followed in the derivation of cost items included in these economic analyses. The resultant figures were used in calculating present value cost estimates for the various alternatives investigated.

II. Cost Element Items.

A schedule of the major cost elements for each of the alternatives was previously shown in year-by-year detail in Table 3. The schedule reflects FY 86 price levels and spans the 21-year period of analysis (FY 06).

III. Cost Element Details.

A. Construction Cost: MCA

MCA construction costs were based on estimates developed by the Army Family Housing Management Division, U.S. Army Corps of Engineers, using the Tri-Service Cost Model (Table A-1). Under this alternative, it was assumed that the new housing units would be built on post.

<u>Fiscal Year</u>	<u>Annual Cost</u>
86	0
87	\$10,247,400
88	\$ 6,831,600

IV. Shelter Rent: 801 Build to Lease

The cost is taken from the actual preferred proposal for this project. Units accepted by the Government will be leased for a 20 year rental term.

Shelter rent was calculated as follows:

SHELTER RENT

START UP				
YEAR	# OF UNITS	MONTHS	\$/MONTH	COST
1987	180	12	\$364.58	\$787,500
TOTAL FOR 1987 =				\$787,500
FYs 88 to 06 =				\$1,312,500

C. Land Cost (Imputed Value of Government Property) MCA Construction

The MCA and 801 lease alternatives would involve the use of existing Government-owned vacant land. Under both alternatives the Government would retain ownership of the land. Therefore, a land acquisition cost is considered a wash in the analysis.

D. Utilities: MCA Construction and 801 Lease

Utility expenses for both alternatives will be equal and are considered a wash in the analysis.

E. Maintenance and Repair: MCA Construction

Estimates for maintenance and repair (M&R) costs on the MCA alternative were based on the assumption that these costs would be similar to the current installation expenses on units of comparable size and age. Further adjustments in these costs were made to reflect anticipated higher maintenance costs due to increased physical deterioration in future years. Historical M&R data (1982 to 1984) were obtained for all units in the family housing inventory at Fort Hood. Examination of these data revealed that average maintenance costs increased with structure age. Varying levels of estimated annual M&R costs were projected based upon a simple regression analysis of the general form:

$$y = 14.28x - 27,471.42$$

where y = the projected M&R costs/DU/yr

x = projected time period (year)

$r = 0.93$ (correlation coefficient)

Using this trendline, M&R costs were adjusted every year during the analysis beginning in FY 87 to reflect the expected increased costs. The resultant M&R expenditures follow.

MAINTENANCE AND REPAIR

FY	ANNUAL \$/UNIT	# UNITS	ANNUAL TOTAL
1986	0	0	0
1987	\$ 902.94	180	\$162,529
1988	\$ 917.22	300	\$275,166
1989	\$ 931.50	300	\$279,450
1990	\$ 945.78	300	\$283,734
1991	\$ 960.06	300	\$288,018
1992	\$ 974.34	300	\$292,302
1993	\$ 988.62	300	\$296,586
1994	\$1,002.90	300	\$300,870
1995	\$1,017.18	300	\$305,154
1996	\$1,031.46	300	\$309,438
1997	\$1,045.74	300	\$313,722
1998	\$1,060.02	300	\$318,006
1999	\$1,074.30	300	\$322,290
2000	\$1,088.58	300	\$326,574
2001	\$1,102.86	300	\$330,858
2002	\$1,117.14	300	\$335,142
2003	\$1,131.42	300	\$339,426
2004	\$1,145.70	300	\$343,710
2005	\$1,159.98	300	\$347,994
2006	\$1,174.26	300	\$352,278

At first glance, this approach would appear to yield costs which are too high in the initial years of project life. This is explained by noting that the BP 1920 cost account from which these costs are obtained includes a reserve for replacing units lost by fire, flood and other hazards. Thus, this M&R cost includes an expense that a private developer would pay as a part of his insurance cost. It should be noted that this cost does not include the cost of deferred maintenance or rehabilitation and is, therefore, considered more reliable than installation average costs which often include these items.

This cost category is considered subject to both real growth (caused by aging of the units), and inflationary growth. Costs have been projected accordingly. In addition, these costs are assumed to begin at delivery of the units.

F. Maintenance Rent: 801 Build-to-Lease

This cost element is also taken directly from the preferred proposal for this project and is intended to include the developer's cost to maintain and repair the project. This rent is to be increased or decreased at the beginning of the second and subsequent years of the lease based on the increase or decrease of the Housing, Shelter, Maintenance and Repair Index for the preceding twelve months of the "Economic Indicators" prepared for the Joint Economic Committee of the Congress by the Council of Economic Advisors. For the purpose of the economic analysis it is assumed that the OMB/OSD inflation indexes supplied will equate to changes in the "Economic Indicators" for the analysis period. The rental costs were calculated as follows:

MAINTENANCE RENT				
STARTUP				
YEAR	# OF UNITS	MONTHS	\$ / MONTH	COST
1987	180	12	\$126.31	\$272,838
TOTAL FOR 1987:				\$272,838
1988	300	12	\$126.31	\$454,730
FYs 88 to 06 =				\$454,730

G. Equipment Costs: MCA Construction

Under this alternative, new refrigerators, ranges and ovens would be installed in the new housing units. Since appliances vary in size and capacity, average size requirements were established based upon the anticipated grade distribution. Further, it would be expected that these appliances would require periodic repair with eventual replacement once over the life of the project. Periodic service calls were programmed such that every two dwelling units received one call per year at a cost of \$30.00 per call. A schedule of the annual expenditures for equipment is depicted below.

Fiscal Year	Item	Number of Units	Annual Cost/Unit	Annual Expenditures ¹
86	Initial issue	0	\$ 0.00 ²	\$ 0.00 ²
87	Service calls	75	\$ 30.00	\$2,250.00
88-98	Service calls	150	\$ 30.00	\$4,500.00
98	Replacement	300	\$1,026.00	\$307,800.00
99-06	Service calls	150	\$ 30.00	\$4,500.00

1 Does not reflect projected annual inflationary price increases.

2 Subject equipment included in initial construction costs.

H. Capital Gains Tax Revenue Gained: 801 Lease

Estimates of the Federal Capital Gains Tax Revenue under the Section 801 Alternative are based on the assumption that the developer/contractor of the Section 801 housing will retain ownership of the project for the 20 year lease term and then sell the project to a non-Government buyer. Revenues received from the sale would be taxed as capital gains and would reduce the Section 801 costs by generating tax revenue.

The value of a structure is generally assumed to decline over time, reflecting its use and physical deterioration. However, the value of land is assumed to increase with time. Therefore, the market values of the improvements (buildings) and the land are computed using the improvement decay and obsolescence rate of -1.7% per year after inflation and the site appreciation rate of +1.5% per year after inflation, cited in Appendix B of OMB Circular A-104 revised, 1 June 1986.

Capital gain is figured based on the value of the property received less the owner's basis in the property. The capital gains tax rate is assumed to be 28%. This cost was calculated as follows:

<u>FEDERAL TAX REVENUE</u>	
IMPROVEMENTS	
FY 86 COST	\$17,079,000
X INFLATION	
TO 2006	1.619
2006 COST	\$27,650,901
BLDG. OBSL.	.72197
IMPV. RESID.	\$19,963,121
PROPERTY VALUE (2006)	\$19,963,121
TAXABLE CAPITAL GAIN	\$19,538,121
X TAX RATE	.28
FEDERAL TAX REVENUE	\$5,470,674

I. Housing Allowances: MCA Construction and 801 Lease

No costs are included in this category as these units are assumed to be delivered on the same schedule as the 801 alternative. The allowances paid to families awaiting delivery of the units will, therefore, be the same in each alternative and are considered "wash" costs.

J. Increase in Real Estate Taxes: 801 Lease

The Request for Proposals on each project specifies that the Government will pay 80% of any increase in total general real estate taxes over those levied in the second lease year. Since the present schedule calls for the units to be delivered in FY 88, FY 89 is considered the second year of the lease and consequently the base year for any increase in real estate taxes.

General real estate taxes would be those assigned on an ad valorem basis against all taxable real property in the taxing authority's jurisdiction. Applicable tax rates for this cost element are listed below.

<u>Tax Entity</u>	<u>Tax Rate Per \$100 Assessed Valuation</u>
County	.2450
City	.4770
School	.4700
Special Districts	.1550
Special Districts	<u>.0300</u>
Effective tax rate per \$100 current valuation	1.3700

The estimated market value of the proposed housing units were calculated using the following formula:

Structure cost	\$17,079,000 (est structure cost)
85 acres x \$5,000/acre (land required)(cost/acre)	\$ 425,000 (est land cost)
\$17,849,000 + \$425,000 (est structure)+(est land)	\$17,504,000 (est market value)
\$17,504,000 x (100%) (0.01377) (est market value) x (assessed valuation)(mill rate)	\$ 241,030 (est tax cost)

The above estimate annual tax cost was indexed to the first full year following BOD (FY 88) for the purposes of calculating projected increases in the applicable taxes due and payable by the Government. Annual expenditures are depicted below.

FY.	INFLATION FACTOR	TOTAL LOCAL TAXES DUE	INCREASE FROM FY 89	TAXES DUE (.8 OF TOTAL)
86	1.000	241,030	-	-
87	1.036	249,707	-	-
88	1.069	257,661	-	-
89	1.099	264,892	-	-
90	1.125	271,249	6,357	5,086
91	1.151	277,488	12,596	10,077
92	1.178	283,870	18,978	15,183
93	1.205	290,399	25,507	20,406
94	1.233	297,079	32,187	25,749
95	1.261	303,911	39,019	31,216
96	1.290	310,901	46,009	36,807
97	1.320	318,052	53,160	42,528
98	1.350	325,367	60,475	48,380
99	1.381	332,851	67,959	54,367
2000	1.413	340,506	75,614	60,491
01	1.445	348,338	83,446	66,757
02	1.478	356,350	91,458	73,166
03	1.512	364,546	99,654	79,723
04	1.547	372,930	108,038	86,431
05	1.583	381,508	116,616	93,293
06	1.619	390,282	125,390	100,312

K. Insurance Costs: MCA Construction

The insurance cost element includes the imputed cost of liability insurance only. Structure replacement is covered under the Maintenance and Repair cost element as noted. Estimates of these costs are based on estimates from commercial insurance sources near Fort Hood. Using a \$500,000 limit, these sources estimate the cost of liability insurance at \$35 per unit (FY 86). It was time phased in accordance with the delivery of units specified under the construction cost element. This cost element was considered subject to inflationary growth only.

Costs were calculated as follows:

INSURANCE COST				
FY	# UNITS	\$/UNIT/YR	# YEARS	
1987	180	\$35	1	\$5,250
1988	300	\$35	1	\$10,500
THRU 2006				

L. Administration: MCA Construction

Operation expenses included in the 801 program provide for the services of an on-site manager, inspector, and maintenance technician to insure that the dwelling units are operated and maintained in accordance with the terms of the lease. Such expenses are implicitly built into the developer's proposal costs. Since installation housing management services currently exist under the MCA option, the Government would only have to expand these services. It is estimated that two additional employees will be required for this purpose. This cost would include salary and overhead costs for these personnel and was estimated to be \$64,100 per year.

M. Residual Value: MCA Construction

This residual value element represents the value which the Government will retain in the property it owns outright at the end of the twenty-two year analysis period. This value was computed by use of the Building Decay-Obsolescence and Site Appreciation factors promulgated in Appendix B of OMB Circular A-104 revised, dated 1 June 1986. Construction cost and site cost are treated separately in order to apply different factors to each. Both were inflated based on OMB/OSD indices to FY 2006 dollars prior to application of these factors. The residual value was computed as follows:

RESIDUAL VALUE

IMPROVEMENTS

FY 86 COST	\$17,079,000
X INFLATION	
TO 2006	1.619
2006 COST	\$27,650,901
BLDG. OBSL.	.72197
IMPV. RESID.	\$19,963,121

RESIDUAL VALUE \$19,963,121

N. Services: MCA Construction

Cost elements in the services account include refuse collection/disposal, entomological and custodial services. Estimates of prior year service expenses (1982-1984) were obtained from AMS housing management accounts furnished by the Budget Office at Fort Hood. An estimate of annual cost breakdown of each of these services is listed below.

<u>Item</u>	<u>Annual Cost¹</u>	<u>Annual Cost/Unit</u>
Refuse collection/disposal	\$158,622.26	\$75.64
Entomology services	125,164.16	59.69
Custodial	27,055.00	12.90
	Total (FY 84)	\$148.23
	Adjustment	1.074
	Total (FY 86)	\$159.20

1 Annual cost to service 2,097 units

The above cost/unit was then applied to the following schedule to derive the annual expenditures for services. Under the 801 alternative, the cost to provide custodial and entomological services is included in the shelter rent.

<u>FY</u>	<u>UNITS</u>	<u>ANNUAL COST/UNIT</u>	<u>ANNUAL EXPENDITURES¹</u>
86	0	0	0
87	180	\$159.20	\$28,656
88-06	300	\$159.20	\$47,760

1 Does not reflect projected annual inflationary increases.

TABLE A-1

COST ESTIMATE FOR MCA CONSTRUCTION

Baseline:

(300)	(968.6)	(46)	=	\$13,367,000
(No. Units)	(ANSF)	(\$/NSF)	=	<u>5' Line Cost</u>

Project Factors:

(0.89)	(0.98)	(1.0)	=	.87
(ACF)	(Project Size)	(Unit Size)	=	<u>Project Factor</u>

Housing Unit Cost:

(\$13,367,000)	(.87)	=	\$11,629,000
(5' Line Cost)	(Project Factor)	=	Housing Unit Cost

Supporting Cost: (30 percent of Housing Unit Costs) \$ 3,489,000

Includes site preparation, roads and paving, utilities,
recreation and landscaping

Special Construction (Sewage Treatment Facility) \$ 300,000

\$ 3,789,000

Summary: (\$11,629,000) + (\$3,789,000) = \$15,418,000
(Unit Cost) (Support Cost) = Subtotal

(\$15,418,000)	(1.05)	(1.055)	=	\$17,079,000
(Subtotal)	(Contingency)	(SI0H)	=	Project Total (round)

Dwelling Unit Cost = \$56,930

ANSF - Average Net Square Feet/Unit
ACF - Area Cost Factor

Project Size - (No. Units)Unit Size = (Net Square Feet)

1- 49 Units = 1.05
50- 99 Units = 1.02
100-199 Units = 1.00
200-499 Units = 0.98
500+ Units = 0.95

950-1,050 = 1.00
1,051-1,150 = 0.99
1,151-1,250 = 0.98
1,251-1,350 = 0.97
1,351+ = 0.96

APPENDIX B

INFLATION AND RESIDUAL FACTORS

I. Inflation. When appropriate, adjustments were made to place all the cost data at current dollar FY 86 price levels. As specified by DOD Comptroller via letter, dated 19 February 1986, based on OMB guidance of 27 December 1985, the inflation rate guidelines shown in Table B-1 were applied to adjust the cost elements to reflect FY 86 and all future price levels.

TABLE B-1

INFLATION RATE GUIDELINES

<u>Fiscal Year</u>	<u>Inflation Rate</u> (percent)
1986-87	3.6
1987-88	3.2
1988-89	2.8
1989-90	2.4
1990-06	2.3

Source: OSD Comptroller letter, dated 19 February 1986.

II. Residual Factors. Calculations of a residual value of a particular item can sometimes be a critical element in an economic analysis. In the case of a structure, the residual value would be its net disposal value at the end of the project life. The residual value of a structure is generally thought to decline over time, reflecting its use, consumption, and/or physical deterioration.

For purposes of this economic analysis, Building Decay Obsolescence Factors were used to calculate residual value for the new construction alternative. Residual factors applicable to this method are listed in Table B-2. Initial construction cost was assumed to approximate new market value. Multiplying this amount by a selected residual factor yields the estimated residual value (in FY 86 prices) for the selected year.

TABLE B-2
RESIDUAL FACTORS

<u>Period of Analysis</u>	<u>Building Decay-Obsolescence Factors*</u>	<u>Site Appreciation Factors</u>
1	0.98300	1.01500
2	0.96629	1.03023
3	0.94986	1.04568
4	0.93371	1.06136
5	0.91784	1.07728
6	0.90224	1.09344
7	0.88690	1.10984
8	0.87182	1.12649
9	0.85700	1.14339
10	0.84243	1.16054
11	0.82811	1.17795
12	0.81403	1.19562
13	0.80019	1.21355
14	0.78659	1.23176
15	0.77322	1.25023
16	0.76007	1.26899
17	0.74715	1.28802
18	0.73445	1.30734
19	0.72197	1.32695
20	0.70969	1.34686
21	0.69782	1.36706
22	0.68616	1.38756

*Factors presented implicitly assume end-of-year building decay-obsolescence and site appreciation changes.

Source: OMB A-104.

APPENDIX C

TABULATION OF FAMILY HOUSING SURVEY

REPORT CONTROL SYMBOL

DATE OF SURVEY		OFFICERS	ELIGIBLE ENLISTED	CIVILIANS	SUBTOTAL (a+b+c)	OTHER ENLISTED	TOTAL (a+g)
1. TOTAL PERSONNEL STRENGTH		4205	22297	9065	37167	10786	47953
2. CURRENT PARTY HOUSING STRENGTH AND KEY CIVILIANS		4205	22297	9065	37167	10786	47953
3. NUMBER OF FAMILIES		2151	15307	0	17458	2786	20244
4. WITHIN ELEMENTS FACTOR		7	22	0	29	25	54
5. LIVING WITH FAMILY (TOTAL: 1-10)		177	1501	0	1704	609	2313
6. SEPARATELY SEPARATED FAMILIES		27	364	0	391	184	575
7. PREFER MILITARY QUARTERS		14	205	0	219	75	294
8. PREFER PRIVATE HOUSING		5	15	0	20	109	129
9. VOLUNTARILY SEPARATED FAMILIES		104	1277	0	1381	425	1806
10. LIVING WITH FAMILY IN AREA (TOTAL: 12-19)		3020	15772	0	18792	2187	20979
11. SUITABLY HOUSED (SUBTOTAL: 13-16)		3012	12951	0	15963	1906	17869
12. IN MILITARY CONTROLLED HOUSING		922	6263	1	7186	0	7187
13. PREFER RENTING OFF POST		25	155	0	180	0	180
14. PREFER OWNING OFF POST		157	1077	0	1234	0	1234
15. IN PRIVATE HOUSING		2125	9678	0	11803	1906	13709
16. PREFER MILITARY QUARTERS		236	2311	0	2547	1046	3593
17. PREFER RENTING OFF POST		263	1526	0	1789	777	2566
18. UNSUITABLY HOUSED (SUBTOTAL: 20-23)		15	832	1	848	191	1039
19. IN MILITARY CONTROLLED HOUSING		0	0	0	0	0	0
20. PREFER RENTING OFF POST		0	0	0	0	0	0
21. PREFER OWNING OFF POST		0	0	0	0	0	0
22. IN PRIVATE HOUSING (SUBTOTAL: 26-28)		15	832	1	848	191	1039
23. PREFER MILITARY QUARTERS		2	670	0	672	143	815
24. PREFER RENTING OFF POST		0	212	0	212	39	251
25. EXCESS DISTANCE		11	127	0	138	12	150
26. SUBSTANDARD		4	705	0	709	179	888
27. EXCESS COST ONLY (LOW RANGE)		0	0	1	1	0	1
28. LESS THAN \$5		0	0	0	0	0	0
29. \$5 TO \$10		0	0	0	0	0	0
30. \$10 TO \$20		0	0	0	0	0	0
31. \$20 TO \$30		0	0	0	0	0	0
32. \$30 AND MORE		0	0	0	0	0	0
33. IN OTHER OCCUPIED HOUSES (TOTAL: 35-38)		1538	2600	0	4138	6	4144
34. SUITABLE IN ALL RESPECTS		1520	2267	0	4216	0	4216
35. UNSUITABLE (SUBTOTAL: 37-38)		0	113	0	113	6	119
36. EXCESS DISTANCE		0	99	0	99	6	105
37. SUBSTANDARD		0	14	0	14	0	14
38. EXCESS COST ONLY		0	0	0	0	0	0
39. IN OTHER OCCUPIED TRAILERS (TOTAL: 41-42)		66	762	0	828	60	888
40. SUITABLE IN ALL RESPECTS (On Post)		66	729	0	795	60	855
41. UNSUITABLE (Subtotal: 43-44) (On Post)		0	14	0	14	0	14
42. EXCESS DISTANCE		0	0	0	0	0	0
43. SUBSTANDARD (On Post)		0	14	0	14	0	14
44. EXCESS COST ONLY (On Post)		0	0	0	0	0	0
45. IN RENTED HOUSING OFF POST (TOTAL: 47-48)		550	5317	1	5868	2121	7989
46. SUITABLE IN ALL RESPECTS		552	6512	0	7064	1926	8990
47. UNSUITABLE (SUBTOTAL: 49-51)		6	705	1	712	165	877
48. EXCESS DISTANCE		2	22	0	24	6	30
49. SUBSTANDARD		4	677	0	681	179	860
50. EXCESS COST ONLY		0	0	1	1	0	1
51. IN MILITARY CONTROLLED HOUSING (TOTAL: 53-57)		292	1262	1	1555	0	1556
52. ADEQUATE AS PUBLIC QUARTERS (Various)		25	830	1	856	0	857
53. MILITARY OWNED (Various)		25	830	1	856	0	857
54. MILITARY LEASED (Various)		0	0	0	0	0	0
55. MILITARY SPONSORED (Various)		0	0	0	0	0	0
56. ADEQUATE AS PUBLIC QUARTERS (Various)		0	0	0	0	0	0
57. VACANT HOUSING (TOTAL: 59-61)		192	341	0	533	51	584
58. PRIVATE RENTAL HOUSING		186	293	0	479	51	530
59. FOR AND VARIOUS RENTAL HOUSING		0	0	0	0	0	0
60. MILITARY HOUSING ADEQUATE AS PUBLIC QUARTERS		7	72	0	79	0	79
61. NUMBER OF UNSUITABLE UNITS INSPECTED		2	25	0	27	19	46
62. NUMBER OF INSPECTED UNITS RECLASSIFIED		2	11	0	13	6	19
63. ADJUSTMENT FACTORS		3,110	11,425	0	14,535	5,975	20,510

APPENDIX C

TABULATION OF FAMILY HOUSING SURVEY

	EFFECTIVE REQUIREMENTS		SUITABLE HOUSING			DEFICIT 10-91
	NUMBER A	PERCENT B	MIL CONTROL C	OFF POST D	TOTAL 10-91 E	
66. 0-10 THROUGH 0-6	93	.2	33	86	121	28-
67. 1 OR 2 BEDROOMS	31	.2	0	24	24	7
68. 3 BEDROOMS	37	.2	35	45	80	43-
69. 4 OR MORE BEDROOMS	25	.1	0	17	17	3
70. 0-9 AND 0-4	723	4.2	183	563	751	28-
71. 1 OR 2 BEDROOMS	268	1.6	0	216	216	52
72. 3 BEDROOMS	301	1.8	104	246	352	51-
73. 4 OR MORE BEDROOMS	154	.9	64	99	183	29-
74. 0-3 THROUGH 0-1 AND 4 THROUGH 0-1	2231	13.0	673	1662	2335	104-
75. 1 OR 2 BEDROOMS	1534	9.0	234	1290	1524	10
76. 3 BEDROOMS	489	2.3	389	234	612	192-
77. 4 OR MORE BEDROOMS	217	1.3	50	89	139	73
78. ALL OFFICER GRADES (TOTAL: 66-70-74)	3047	17.3	896	2311	3207	160-
79. 1 OR 2 BEDROOMS	1633	10.7	234	1534	1764	89
80. 3 BEDROOMS	813	4.3	528	576	1104	260-
81. 4 OR MORE BEDROOMS	396	2.3	134	203	339	57
82. 0-9 THROUGH 0-7	2493	14.0	976	1512	2488	5
83. 1 OR 2 BEDROOMS	303	5.3	320	693	1013	140-
84. 3 BEDROOMS	956	5.6	316	519	831	127
85. 4 OR MORE BEDROOMS	632	3.7	340	304	644	12-
86. 0-6 THROUGH 0-4 (Enlisted)	11374	61.6	3363	7395	10764	610
87. 1 OR 2 BEDROOMS	8016	46.8	1330	5564	7040	976
88. 3 BEDROOMS	2475	14.5	1423	1298	2723	240-
89. 4 OR MORE BEDROOMS	1079	6.3	560	441	1001	73
90. ALL ELIGIBLE ENLISTED (TOTAL: 82-90)	14067	32.2	4341	8914	13252	515
91. 1 OR 2 BEDROOMS	8913	32.1	1700	6353	8053	333
92. 3 BEDROOMS	3437	20.1	1741	1813	3554	111-
93. 4 OR MORE BEDROOMS	1711	10.1	900	743	1643	60
94. ALL ELIGIBLE MILITARY (TOTAL: 78-90)	17114	103.7	5237	11224	16459	633
95. 1 OR 2 BEDROOMS	10752	62.8	1934	7882	9817	935
96. 3 BEDROOMS	4255	24.9	2269	2389	4658	453-
97. 4 OR MORE BEDROOMS	2107	12.3	1034	950	1984	123
98. KEY CIVILIANS (EQUIVALENT)	0	.0	0	0	0	0
99. 1 OR 2 BEDROOMS	0	.0	0	0	0	0
100. 3 BEDROOMS	0	.0	0	0	0	0
101. 4 OR MORE BEDROOMS	0	.0	0	0	0	0
102. KEY CIVILIANS (EQUIVALENT)	0	.0	0	0	0	0
103. 1 OR 2 BEDROOMS	0	.0	0	0	0	0
104. 3 BEDROOMS	0	.0	0	0	0	0
105. 4 OR MORE BEDROOMS	0	.0	0	0	0	0
106. ALL ELIGIBLE CATEGORIES (Total 94-99+102)	17114	100.0	5237	11224	16459	633
107. 1 OR 2 BEDROOMS	10752	52.3	1934	7882	9817	933
108. 3 BEDROOMS	4255	24.9	2269	2389	4653	403-
109. 4 OR MORE BEDROOMS	2107	12.3	1034	954	1984	123
110. 0-4 (Enlisted) THROUGH 0-1	2371	100.0	0	2071	2071	294
111. 1 OR 2 BEDROOMS	2164	92.1	0	1969	1969	215
112. 3 BEDROOMS	163	6.9	0	78	76	87
113. 4 OR MORE BEDROOMS	24	1.0	0	12	12	12

114. REMARKS. 3 BEDROOM REQUIREMENTS

010 - 06 11
05 - 04 34
03 - W1 58
E9 - E7 191
E6 - E4 363

1 BEDROOM REQUIREMENTS

9
53
643
263
2582

115. AUTHENTICATION	NAME AND TITLE ROBERT K. JAYNE, COL, EN Facilities Engineer	SIGNATURE	DATE
116. NAME AND LOCATION OF INSTALLATION		111 CORPS & FORT RUSSELL, TX	
		ZAP	

APPENDIX C

DETERMINATION OF HOUSING REQUIREMENTS AND PROJECT COMPOSITION							REPORT FOR AREA COMMAND	
							C2 IEL (A) 665	
DERIVATION OF LONG-RANGE HOUSING REQUIREMENTS	OFFICERS		ENLISTED MEN				OVERLAP	TOTAL
	OPERATIONAL	STUDENTS	OPERATIONAL		STUDENTS			
			ENLISTED	OTHER	ENLISTED	OTHER		
1 TOTAL PERSONNEL STRENGTH	4630	0	25045	11304	0	330	4623	45798
2 EQUIPMENT PARTY HOUSING STRENGTH	4690	0	25045	11304	0	0	1	41040
3 HOUSING REQUIREMENTS FACTOR	74.7	0.0	64.8	25.7	0.0	0.0	0.0	55.4
4 LONG-RANGE HOUSING REQUIREMENTS	3503	0	16229	3018	0	0	1	22751
DERIVATION OF LONG-RANGE HOUSING DEFICIT								
	OFFICERS	ENLISTED	STUDENTS	SUB-TOTAL		OTHER	TOTAL	
1 LONG-RANGE HOUSING REQUIREMENTS	3503	16229	1	19733	100	3018	22751	
2 MILITARY SEPARATED FAMILIES	116	1311	0	1427	100	459	1886	
3 EFFECTIVE HOUSING REQUIREMENTS (A-B-C)	3387	14918	1	18308	92	2559	20865	
4 APPROXIMATE LAND 90	3049	13426	1	16476	83	2303	18779	
5 AVAILABLE HOUSING ASSETS (D-E-F)	3216	13306	1	16523	83	2091	18814	
6 MILITARY CONTROLLED ASSETS (G-H-I)	396	4341	0	5237	28	0	5237	
7 MILITARY OWNED - UNDER CONTRACT	0	0	0	0	0	0	0	
8 MILITARY OWNED - APPROVED	0	0	0	0	0	0	0	
9 MILITARY LEASED - EXISTING AND APPROVED	0	0	0	0	0	0	0	
10 OTHER (J)	0	0	0	0	0	0	0	
11 NOT MILITARY CONTROLLED ASSETS (K-L-M)	2320	8965	1	11286	57	2091	13377	
12 CURRENTLY OCCUPIED - OWNED	1573	4016	0	5589	28	50	5649	
13 CURRENTLY OCCUPIED - RENTED	552	4612	0	5164	25	1936	7100	
14 CURRENTLY VACANT - PRIVATE FOR RENT	166	283	0	449	2	31	550	
15 CURRENTLY VACANT - FOR AND FOR RENT	0	0	0	0	0	0	0	
16 UNDER CONSTRUCTION OR FINALLY PLANNED	9	54	1	64	0	14	78	
17 NET HOUSING DEFICIT (N-O-P)	171	1612	0	1783	9	468	2251	
18 APPROXIMATE DEFICIT (Q-R-S)	-167	120	0	-47	100	212	165	
PROPOSED HOUSING INCREMENTS AND PROGRAMMING LEVELS								
FISCAL YEAR 1960	19 NEW CONSTRUCTION							
	20 OTHER (T)							
	21 MILITARY PROGRAMMING LEVEL - NO (U = 20 + 21)							
	22 MILITARY PROGRAMMING LEVEL - PERCENT (V = 2)							
	23 TOTAL PROGRAMMING LEVEL - NO (W = U + V + 20)							
FISCAL YEAR 1961	24 NEW CONSTRUCTION							
	25 OTHER (T)							
	26 MILITARY PROGRAMMING LEVEL - NO (X = 25 + 26)							
	27 MILITARY PROGRAMMING LEVEL - PERCENT (Y = 3)							
	28 TOTAL PROGRAMMING LEVEL - NO (Z = X + Y + 25)							
FISCAL YEAR 1962	29 NEW CONSTRUCTION							
	30 OTHER (T)							
	31 MILITARY PROGRAMMING LEVEL - NO (AA = 30 + 31)							
	32 MILITARY PROGRAMMING LEVEL - PERCENT (AB = 4)							
	33 TOTAL PROGRAMMING LEVEL - NO (AC = AA + AB + 30)							
FISCAL YEAR 1963	34 NEW CONSTRUCTION							
	35 OTHER (T)							
	36 MILITARY PROGRAMMING LEVEL - NO (AD = 34 + 35)							
	37 MILITARY PROGRAMMING LEVEL - PERCENT (AE = 5)							
	38 TOTAL PROGRAMMING LEVEL - NO (AF = AD + AE + 34)							
FISCAL YEAR 1964	39 NEW CONSTRUCTION							
	40 OTHER (T)							
	41 MILITARY PROGRAMMING LEVEL - NO (AG = 39 + 40)							
	42 MILITARY PROGRAMMING LEVEL - PERCENT (AH = 6)							
	43 TOTAL PROGRAMMING LEVEL - NO (AI = AG + AH + 39)							
111 CORPS & FORT. MOOD, TX								

APPENDIX C

DETERMINATION OF HOUSING REQUIREMENTS AND PROJECT COMPOSITION								
QUALITATIVE ANALYSIS OF REQUIREMENTS	1950 PERSONS			1950 MILITARY			DIFFERENCE	TOTAL
	OFFICIALS	MILITARY	PROJECTIONS	MILITARY	OFFICIALS	TOTAL		
10 0 - 10 PERSONS	102	.6	92	35	86	121	-29	
11 1 AND 2 BEDROOMS	42	.2	38	0	24	24	14	
12 3 BEDROOMS	32	.2	29	35	45	80	-51	
13 4 OR MORE BEDROOMS	23	.2	25	0	17	17	8	
14 0 - 1 AND 2	803	4.4	723	188	568	734	-31	
15 1 AND 2 BEDROOMS	264	1.4	238	0	210	216	22	
16 3 BEDROOMS	322	1.8	299	104	251	355	-56	
17 4 OR MORE BEDROOMS	207	1.1	184	34	99	183	3	
18 0 - 1 AND 2 - 10	2482	13.6	2234	673	1668	2341	-107	
19 1 AND 2 BEDROOMS	1715	9.4	1467	234	1290	1530	-63	
20 3 BEDROOMS	557	3.0	557	389	243	672	-115	
21 4 OR MORE BEDROOMS	210	1.1	210	50	39	139	71	
22 OFFICIALS TOTAL	3387	18.5	3049	896	2320	3216	-167	
23 1 AND 2 BEDROOMS	2021	11.0	1743	234	1525	1770	-27	
24 3 BEDROOMS	921	5.0	825	528	579	1107	-222	
25 4 OR MORE BEDROOMS	445	2.4	421	134	205	339	82	
26 0 - 1	2640	14.4	2378	976	1512	2488	-112	
27 1 AND 2 BEDROOMS	946	5.2	692	320	693	1013	-331	
28 3 BEDROOMS	892	4.9	892	316	515	831	61	
29 4 OR MORE BEDROOMS	802	4.4	802	1340	304	644	150	
30 0 - 1 - 10	12278	67.1	11050	3365	7453	10818	232	
31 1 AND 2 BEDROOMS	9071	49.6	7843	1380	5714	7094	749	
32 3 BEDROOMS	2424	13.2	2424	1425	1293	2723	-299	
33 4 OR MORE BEDROOMS	783	4.3	783	560	441	1001	-218	
34 ALL ELIGIBLE ANALYSTS	14913	81.5	13426	4241	8965	13306	120	
35 1 AND 2 BEDROOMS	10017	54.7	8525	1700	6407	8107	412	
36 3 BEDROOMS	3316	18.1	3316	1741	1813	3554	-238	
37 4 OR MORE BEDROOMS	1585	8.7	1585	900	745	1645	-60	
38 ALL ELIGIBLE MILITARY	18305	.0	16475	5237	11285	16522	-47	
39 1 AND 2 BEDROOMS	12032	65.8	10268	1934	7943	9877	391	
40 3 BEDROOMS	4237	23.1	4201	2269	2392	4661	-460	
41 4 OR MORE BEDROOMS	2030	11.1	2006	1034	950	1934	22	
42 KEY CIVIL EQUIVALENT	0	.0	0	0	1	1	-1	
43 1 AND 2 BEDROOMS	0	.0	0	0	1	1	-1	
44 3 BEDROOMS	0	.0	0	0	0	0	0	
45 4 OR MORE BEDROOMS	0	.0	0	0	0	0	0	
46 KEY CIVIL EQUIVALENT	1	.0	1	0	0	0	1	
47 1 AND 2 BEDROOMS	1	.0	1	0	0	0	1	
48 3 BEDROOMS	0	.0	0	0	0	0	0	
49 4 OR MORE BEDROOMS	0	.0	0	0	0	0	0	
50 ALL ELIGIBLE CATEGORIES	18306	.0	16476	5237	11285	16522	-47	
51 1 AND 2 BEDROOMS	12039	65.8	10269	1934	7944	9878	391	
52 3 BEDROOMS	4237	23.1	4201	2269	2392	4661	-460	
53 4 OR MORE BEDROOMS	2030	11.1	2006	1034	950	1934	22	
54 0 - 1 - 10	2559	.0	2303	0	2091	2091	212	
55 1 AND 2 BEDROOMS	2376	92.6	2130	0	1983	1983	153	
56 3 BEDROOMS	161	6.3	145	0	90	90	49	
57 4 OR MORE BEDROOMS	22	.9	20	0	12	12	5	
* DO 1377 MILITARY ASSETS DO NOT AGREE WITH LINE 11:00 1379								
APPROVED	ROBERT K. JAYNE, COL, EN Facilities Engineer			DATE				
121 CORPS & FGRT HODU, TX 24P								

APPENDIX C

NARRATIVE ON FAMILY HOUSING	REPORT CONTROL SYMBOL DD-H&I (APR 85)						
<p>Fort Hood, Texas is the home post of III Corps, 1st Cavalry Division, 2d Armored Division, 6th Cavalry Brigade (Air Combat), the 13th Support Command, the 3d Signal Brigade, the TRADOC Combined Arms Testing Activity (TCATA), the Medical Support Activity (MEDDAC) and various other tenant organizations.</p>							
<p>Located in the "hill and lake" country of Central Texas, Fort Hood's main post is approximately 72 miles north of the capital city of Austin and 60 miles south of Waco. Killeen, the nearest city, with a population of 58,000, is located on the southeastern boundary of the military reservation. Copperas Cove, population 26,000, borders the installation to the west.</p>							
<p>Civilian housing in the commuting area consists of single, duplex, and multiplex units, as well as numerous mobile home rentals. Construction of multi-family units continues to expand; however, costs of new housing generally exceeds the BAO-VHA of our lower ranking soldiers. Vacancy listings at Housing Referral reflect a number of 1, 2, and 3 bedroom units in all price ranges; however, the steadily rising cost of the 2 and 3 bedroom units places them out of the reach of lower grade personnel who have multiple dependents.</p>							
<p>Fort Hood military-owned housing assets consist of 896 officer and 4,341 enlisted quarters. Assets are currently allocated as follows:</p> <table border="0"> <tr> <td>10 - General Officer Quarters</td> <td>673 - Company Grade Officer</td> </tr> <tr> <td>25 - Senior Officer</td> <td>976 - Senior Enlisted</td> </tr> <tr> <td>188 - Field Grade Officer</td> <td>3,365 - Junior Enlisted Quarters</td> </tr> </table> <p>Currently, 17 Senior Officer and 3 General Officer quarters are programmed for construction in FY 85 with plans for completion by FY 86.</p>	10 - General Officer Quarters	673 - Company Grade Officer	25 - Senior Officer	976 - Senior Enlisted	188 - Field Grade Officer	3,365 - Junior Enlisted Quarters	
10 - General Officer Quarters	673 - Company Grade Officer						
25 - Senior Officer	976 - Senior Enlisted						
188 - Field Grade Officer	3,365 - Junior Enlisted Quarters						
<p>Proposals are pending for approval to construct 300 (2 bedroom) Junior NCO (E4 - E6) quarters. These quarters will be Section 801, build-to-lease units, with plans for occupancy by FY 87.</p> <p>Analysis of both the current and projected available community assets indicates that the local market cannot provide sufficient suitable housing which is affordable by military families in the Junior NCO (E4 - E6) group. This problem has been discussed with local community leaders, appropriate real estate groups, and civic agencies. Even with their Variable Housing Allowance (VHA), personnel in this grade group experience considerable difficulty obtaining suitable accommodations which they can afford. Of the total 3,381 service members who completed the FY 85 Family Housing Requirements Survey questionnaire, 336, or roughly 10%, indicated that they are paying in excess of the BAO/VHA. Cost is a significant factor in determining the suitability of off-post housing assets and must be recognized as a basis for excluding high-cost housing from the survey assets.</p> <p>Family housing requirements are expected to increase by 700 to 1,400 as a result of the AH-64 Single Station Fielding program. Fourteen of the 32 battalions to be trained will be formed by personnel PCS to Fort Hood. Three battalions will be forming up, training, or preparing to deploy to OCONUS at any given time for the next 5 years. It is probable that many of the AH-64 families will also require retention of quarters for</p>							
<p>DD FORM 1379-1 (Rev. 8-83)</p> <p>1. NAME AND GRADE OF COMMANDER D. J. BOYLE, COL. GS Garrison Commander</p>	<p>2. SIGNATURE <i>D. J. Boyle</i></p> <p>3. DATE 16 May '85</p>						

DD FORM 1379

PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE

APPENDIX C

Information presented must be pertinent and significant. Each category should be restricted to space provided. If space is not sufficient for all essential facts, back of form may be used for continuation; in such instances additional information must be identified by number and title of category.

1. Describe **BRIEFLY** principal activity of installation. Use general terms which can be readily understood by laymen — for example: home port for STRAC division, home port for Polaris submarines, home base for B-52 bombers and KC-135 tankers, etc. Also describe subordinate activities and satellite installations, if any.

2. Give number of miles and direction from nearest city or town which is generally known and is readily found on a highway map. Be sure that the direction given (N, NE, NNE, etc.) is direction in which installation lies from city or town. Also, describe **BRIEFLY** general character of area, covering: (1) population of the commuting area (within one (1) hour of the installation), (2) terrain (mountainous, coastal plain, desert, etc.), and (3) local economy (agricultural with principal products, such as citrus fruit, beef, poultry, grain, truck crops, etc.; industrial with principal products, such as automobiles, home appliances, aircraft, electronics, etc.; resort with principal season and sports, etc.).

3. Describe **BRIEFLY** local housing conditions, giving emphasis to housing generally available to military personnel. Cover type and condition (old, dilapidated houses; converted apartments; new luxury apartments; new for sale houses; etc.); size in relation to military needs (number of bedrooms, floor area, etc.); cost in relation to MAHC; accessibility to installation (distance, traffic bottlenecks, public transportation, etc.); and any other significant features (competition with civilians immigrating for employment in new industries, general preferences of landlords for military or civilian tenants, etc.). Also give information on plans for new private housing construction within the commuting area.

4. Provide **BRIEF** summation of each category of military-owned or controlled housing assets, giving planned occupancy by officers and enlisted men. Also, describe briefly any plans for new construction, rehabilitation or disposal as well as any unusual conditions affecting inventory or programming.

5. Give number of units proposed by fiscal year and occupancy by officers and enlisted men. Describe briefly outstanding facts and conditions which support need. If need based on military necessity, explain fully. Cite military and total programming levels to be attained if proposed housing provided. Report discussions with local interested groups and their reactions. State whether land must be acquired for the proposed project(s) and whether any site development or utility problems are anticipated.

6 and 7. Self-explanatory.

5. JUSTIFICATION OF PROPOSED HOUSING (Continued)

at least 140 days, as concurrent travel for dependents cannot be guaranteed by the overseas command.

Retention programs currently authorized have impacted the availability of housing. There are currently 316 families residing in on-post housing with sponsors stationed OCONUS or at other installations in CONUS (e.g., Fort Drum). This percentage (6.0%) of all families with absentee sponsors is continuing to climb. Further compounding this problem is the participation of two Fort Hood battalions in Project COHOPT, with a probability that many families of these battalions will be authorized retention of quarters at the time of the battalion rotation.

In order to present a more realistic picture of the off-post housing assets for military personnel stationed at Fort Hood, the commuting distance for the FY 85 Housing Requirements Survey was limited to approximately 20 miles. Approximately 84% of all military families residing off post locate housing in Killeen, Copperas Cove, Nolanville, and Harker Heights, which are the cities located within this 20-mile radius. Residing at greater distances from Fort Hood causes personal problems for our soldiers, including excessive transportation costs increased accident exposure, and making use of Fort Hood support facilities (e.g., PX, Commissary, hospital, etc.) and recreational facilities much more difficult. In addition, soldiers residing in outlying areas have difficulty meeting readiness response requirements.

The following revisions were made to the economic analysis to reflect the effects of the pending tax law changes. In this example, the Federal Tax Revenue was deleted from the 801 alternative. The results are displayed on the following pages.

GENERAL DATA

LOCATION	FORT HOOD, TX
NUMBER OF UNITS	300
STARTING FY	1986
DISCOUNT RATE	9.6%
INFLATION RATE	OMB/OSD

MCA DATA

CONSTRUCTION COST	\$17,079,000
M&R COST	\$917/UNIT (1st YEAR)
	\$1,160/UNIT (20th YEAR)
EQUIPMENT	
SERVICE	\$15/UNIT/YR
REPLACEMENT	\$1,026 (10th Yr)
IMPUTED INSURANCE	\$35/UNIT
SERVICES	\$159/UNIT/YR
RESIDUAL VALUE	
DETERIORATION FACTOR	.72197
INFLATION	1.613
ADMINISTRATION	\$64,100/YR

LEASE DATA

SHELTER RENT	\$1,312,500
MAINTENANCE RENT	\$454,730
PROPOSED BUILDING COST	\$17,079,000
REAL ESTATE TAX RATE	.01377 X ASSESSED VALUE
REAL ESTATE TAX INCREASE	80%

Net Present Value

Uniform Annual Equivalent

MCA Construction	\$15,716,058	\$1,766,416
801 Lease	\$15,244,233	\$1,619,469

Comparison of the alternatives revealed that MCA construction would become the least cost alternative if:

*the construction cost was reduced by 3.32% from \$17,079,000 to \$16,511,977.

*the maintenance and repair was reduced by 16.02% from \$275,166 to \$231,084.

*the shelter rent was increased by 4.49% from \$1,312,500 to \$1,371,431.

*the maintenance rent was increased by 10.55% from \$454,730 to \$502,704.

CHANGES IN COST ELEMENTS TO RANK MCA AS LEAST COSTLY

<u>Cost Element</u>	<u>Required Change (Percent)</u>
Construction Cost	- 3.32
Maintenance and Repair	-16.02
R.E. Tax Rate	Insensitive
Shelter Rent	4.49
Maintenance Rent	10.55

PROJECT/PROGRAM COSTS

YEAR	SHELTER RENT (01)	MAINTENANCE RENT (02)	PAYABLE R.E. TAX INCREASE (03)	TOTAL ANNUAL OUTLAYS	DISCOUNTED PRESENT VALUE	CUMULATIVE NET DISC P.V.
1986	\$0	\$0	\$0	\$0	\$932,680	\$932,680
1987	\$787,500	\$282,660	\$0	\$1,070,160	\$1,430,297	\$2,362,978
1988	\$1,312,500	\$486,175	\$0	\$1,798,675	\$1,314,892	\$3,677,871
1989	\$1,312,500	\$499,788	\$0	\$1,812,288	\$1,211,027	\$4,888,898
1990	\$1,312,500	\$511,783	\$5,086	\$1,829,369	\$1,115,076	\$6,003,974
1991	\$1,312,500	\$523,554	\$10,077	\$1,846,131	\$1,026,855	\$7,030,830
1992	\$1,312,500	\$535,596	\$15,183	\$1,863,279	\$945,732	\$7,976,562
1993	\$1,312,500	\$547,914	\$20,406	\$1,880,820	\$871,127	\$8,847,689
1994	\$1,312,500	\$560,516	\$25,749	\$1,898,765	\$802,509	\$9,650,199
1995	\$1,312,500	\$573,408	\$31,216	\$1,917,124	\$739,389	\$10,389,588
1996	\$1,312,500	\$586,597	\$36,807	\$1,935,904	\$681,320	\$11,070,908
1997	\$1,312,500	\$600,088	\$42,528	\$1,955,116	\$627,891	\$11,698,800
1998	\$1,312,500	\$613,890	\$48,380	\$1,974,770	\$578,726	\$12,277,527
1999	\$1,312,500	\$628,010	\$54,367	\$1,994,877	\$533,479	\$12,811,007
2000	\$1,312,500	\$642,454	\$60,491	\$2,015,445	\$491,833	\$13,302,841
2001	\$1,312,500	\$657,231	\$66,757	\$2,036,488	\$453,496	\$13,756,337
2002	\$1,312,500	\$672,347	\$73,166	\$2,058,013	\$418,201	\$14,174,539
2003	\$1,312,500	\$687,811	\$79,723	\$2,080,034	\$385,703	\$14,560,242
2004	\$1,312,500	\$703,631	\$86,431	\$2,102,562	\$355,776	\$14,916,019
2005	\$1,312,500	\$719,814	\$93,293	\$2,125,607	\$328,213	\$15,244,233
2006	\$1,312,500	\$736,370	\$100,312	\$2,149,182		

UNIFORM ANNUAL EQUIVALENT = \$1,713,384 (9.60% DISCOUNT RATE, 21 YEARS)

YEAR	PROJECT/PROGRAM COSTS					PAGE 001			PAGE 002		
	INITIAL CONSTRUCTION COSTS (01)	MAINTENANCE AND REPAIR (02)	EQUIPMENT COSTS (03)	IMPUTED INSURANCE COSTS (04)	RESIDUAL VALUE (05)	SERVICES (06)	ADMIN COSTS (07)	TOTAL ANNUAL OUTLAYS	DISCOUNTED PRESENT VALUE	CUMULATIVE NET DISC P.V.	
1986	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
1987	\$10,247,400	\$168,380	\$2,330	\$6,526	\$0	\$29,687	\$39,844	\$10,494,170	\$9,146,022	\$9,146,022	
1988	\$6,831,600	\$294,194	\$4,811	\$11,226	\$0	\$51,062	\$68,532	\$7,261,426	\$5,774,250	\$14,920,272	
1989	\$0	\$307,140	\$4,945	\$11,540	\$0	\$52,492	\$70,451	\$446,570	\$324,006	\$15,244,278	
1990	\$0	\$319,333	\$5,064	\$11,817	\$0	\$53,752	\$72,142	\$462,109	\$305,912	\$15,550,191	
1991	\$0	\$331,610	\$5,181	\$12,089	\$0	\$54,988	\$73,801	\$477,670	\$288,516	\$15,838,707	
1992	\$0	\$344,282	\$5,300	\$12,367	\$0	\$56,253	\$75,499	\$493,702	\$272,080	\$16,110,788	
1993	\$0	\$357,363	\$5,422	\$12,651	\$0	\$57,547	\$77,235	\$510,219	\$256,553	\$16,367,341	
1994	\$0	\$370,777	\$5,546	\$12,942	\$0	\$58,370	\$79,012	\$527,149	\$241,848	\$16,609,190	
1995	\$0	\$384,795	\$5,674	\$13,240	\$0	\$60,224	\$80,829	\$544,764	\$228,038	\$16,837,229	
1996	\$0	\$399,171	\$5,804	\$13,544	\$0	\$61,609	\$82,688	\$562,820	\$214,960	\$17,052,189	
1997	\$0	\$414,006	\$5,931	\$13,856	\$0	\$63,026	\$84,590	\$581,671	\$202,093	\$17,254,283	
1998	\$0	\$429,311	\$6,075	\$14,175	\$0	\$64,476	\$86,535	\$600,574	\$190,956	\$17,445,239	
1999	\$0	\$445,102	\$6,214	\$14,501	\$0	\$65,959	\$88,526	\$620,304	\$179,954	\$17,625,193	
2000	\$0	\$461,392	\$6,357	\$14,834	\$0	\$67,476	\$90,562	\$640,623	\$169,570	\$17,794,764	
2001	\$0	\$478,196	\$6,503	\$15,175	\$0	\$69,028	\$92,645	\$661,549	\$159,771	\$18,094,535	
2002	\$0	\$495,528	\$6,653	\$15,524	\$0	\$70,616	\$94,775	\$683,099	\$150,525	\$18,245,061	
2003	\$0	\$513,405	\$6,806	\$15,881	\$0	\$72,240	\$96,955	\$705,290	\$141,802	\$18,386,863	
2004	\$0	\$531,843	\$6,963	\$16,247	\$0	\$73,901	\$99,135	\$728,141	\$133,573	\$18,520,436	
2005	\$0	\$550,856	\$7,123	\$16,620	\$0	\$75,601	\$101,467	\$751,669	\$125,811	\$18,646,248	
2006	\$0	\$570,463	\$7,287	\$17,003	-\$19,963,120	\$77,340	\$103,800	-\$19,187,224	\$2,930,190	\$15,716,053	

UNIFORM ANNUAL EQUIVALENT = \$1,766,416 (9.60% DISCOUNT RATE, 21 YEARS)

SECTION 801 BUILD TO LEASE MILITARY HOUSING PROGRAM
FORT POLK, LOUISIANA

AN ECONOMIC AND SENSITIVITY
ANALYSIS OF ALTERNATIVES FOR
PROVIDING FAMILY HOUSING

Summary of Analysis and OMB/OSD revisions at Tabs A and B
(Entered by OSD, 9/3/86)

This analysis was developed in accordance with the ground rules and discount rate coordinated with OMB National Security Staff in February 1986, and confirmed by OSD memorandum of 3 April 1986. The analysis was the basis of a submission to Congress on 2 April 1986 to establish a ceiling price for the 801 proposal. Bidders were advised to bid under the ceiling to ensure that their proposals would have Net Present Values less than the Military Construction Alternative. The results of the bid proposals utilizing the 3 April ground rules are:

	Ft Polk
Net present value of the MILCON alternative	\$18,784,727
Net present value of the 801 alternative	\$17,235,204
801 savings versus MILCON (%)	8%

During OMB review of three Navy 801 projects in July 1986 one assumption of this and all previously OMB approved analyses was ruled incorrect. The ruling was made after the government had solicited proposals and designs from contractors and agreed to lease ceilings with Congress. The change involved the assumption of sale of the 801 project after 20 years and resulting capital gains tax payable by the 801 developer. Previously this tax was subtracted from the 801 proposal as a gain to the government. The new view is that the taxes arising from the sale of the project represent a loss to the government amounting to the difference between the tax due at regular income rates and that due at the favorable capital gains rate. Because of this the assumption of sale was dropped lowering the amount of savings for each 801 proposal. Tab A of the attached analysis is based on the assumption of no sale of the 801 project with results as listed below.

	Ft Polk
Net present value of the MILCON alternative	\$18,784,727
Net present value of the 801 alternative	\$18,240,490
801 savings versus MILCON (%)	3%

Under the revised ground rules above, the 801 proposal is less appealing than under the rules of 3 April. However, the new tax legislation changes the picture significantly and, as outlined below, renders the 801 alternative substantially more attractive than MILCON.

The basic analysis and the revision at Tab A include the effect of the existing tax preference for accelerated depreciation. Under the present tax laws for off-base projects the developer may use an accelerated depreciation schedule. The cost of this tax preference has been charged to the 801 alternative in this analysis and is included in both 801 net present value figures above. The approved Conference version of the Tax Reform Act includes no provision for accelerated depreciation. Under Tax reform the developer will not be able to claim accelerated depreciation which significantly lowers the cost of this 801 proposal to the government. The effect of tax reform on the cost to the government of this 801 proposal and, in accordance with latest OMB guidance, assuming no sale of the 801 project, is summarized in Tab B of the attached analysis and in the table below:

	Ft Polk
Net present value of the MILCON alternative	\$18,784,727
Net present value of the 801 alternative	\$15,737,961
801 savings versus MILCON (%)	16%

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I. EXECUTIVE SUMMARY

A. The Decision Objective

The objective of this study is to determine if a proposed military lease housing program is a cost effective means of providing adequate housing for 300 military personnel at Fort Polk, Louisiana when compared to military construction.

B. Background

Section 801 of the Military Construction Authorization Act of 1986 authorized the Secretary of each Military Department to enter into long term lease agreements for up to 600 units. Fort Polk, LA is one of the locations selected for this program. If approved by Congress, these housing facilities would be available for beneficial occupancy in FY 88.

Major provisions set forth in this program are as follows:

- * Occupants would forfeit Basic Allowances for Quarters (BAQ) and Variable Housing Allowances (VHA) in return for assigned quarters.
- * The Government would pay all rent, utilities and administrative costs.
- * The program cannot be applied to existing housing.
- * The new housing units are required to be constructed in conformance with DOD specifications.
- * Upon termination of the lease agreement, the Government would have the right to acquire all right, title, and interest in the leased housing facilities.
- * The leasing agreement cannot exceed 20 years.
- * A validated deficit in military housing must exist in the general area.
- * Use of military controlled housing must have exceeded 97 percent occupancy for 18 consecutive months preceding an agreement.
- * Priority shall be given to military families.
- * The new housing units will be built on privately owned land.

C. Major Assumptions

1. The structure life for MCA construction is assumed to be 40 years.

2. New housing would be constructed on private land under the 801 program.

3. In order to facilitate the estimate of implied residual value (MCA Construction), it is assumed that a demand for the housing facilities will exist beyond the analysis period (FY 06).

4. A scheduled beneficial occupancy date (BOD) will be set to occur upon completion and acceptance of the housing project by the Government in FY 88.

5. The 801 Program assumed 18 year accelerated depreciation with preferential tax treatment.

6. That the owner/developer of the 801 Housing will retain ownership of the project for the 20 year lease term and then sell the project to a non-Government buyer. The sale is assumed to be completed at the end of the last fiscal year of the analysis period.

D. Methodology

1. A current dollar analysis was performed, and present value calculations utilized a discount rate of 9.6 percent (per OMB and OSD guidelines).

2. All costs are estimated in FY 86 prices (current dollars).

3. Expense elements which would be the same for either alternative are considered wash costs, and are not included in the comparative cost analysis.

4. The length of the analysis period is 21 years (FY 86 through FY 06).

E. Alternative Courses of Action

Two potential housing alternatives for Fort Polk, LA are analyzed herein:

1. Construction of 300 new family housing units over a 1.5 year period from FY 87 to FY 88, with scheduled BOD of April 1988.

2. 801 Build-to-Lease Program. The Army would enter into a long-term agreement to lease 300 rental units to be constructed by a private developer with scheduled BOD of mid FY 88. Specific provisions of the agreement were previously described in paragraph B above. The rental units would be located on private land.

F. Economic Analysis Results

	NET PRESENT VALUE	UNIFORM ANNUAL COST
801	\$17,235,204	\$2,038,852
MCA	\$18,784,727	\$1,937,161

These analyses reveal that the least costly viable alternative to meet Fort Polk's housing needs would be through the Section 801 Build-to-Lease Program. The advantages and disadvantages of each alternative are summarized in Table 1.

TABLE 1
COMPARISON OF HOUSING ALTERNATIVES

<u>Element</u>	<u>Alternatives</u>	
	<u>MCA Construction</u>	<u>Build-to-Lease</u>
Net Present Value	disadvantage	advantage
Initial Government outlay	disadvantage	advantage
Recurring O&M costs	approx equal	approx equal
Adds to available housing assets	equal	equal
Insures housing services obtainable for 20 years	equal	equal
Availability of housing services after 20 years	advantage	disadvantage
Time required to implement alternative	approx equal	approx equal

G. Sensitivity Analysis Results

This economic analysis requires that certain assumptions and judgements be applied to the development of the various expense elements. Sensitivity tests were performed to determine what changes would be required in each cost element to produce a different ranking of the housing alternatives. If slight changes in an estimated cost item would alter the ranking of alternatives, the analysis is said to be "sensitive" to that variable. The results of this analysis are shown later in Tables 4 and 5, and are described in paragraph II.D.2.

H. Nonmonetary Factors

Using the results of this analysis as the only selection criteria suggests that the lease alternative is the best choice. The 801 Leasing Program and the MCA alternatives are equivalent and comparable in that each would satisfy the objectives of providing adequate housing services.

I. Recommended Course of Action

It is felt that the requirement to provide needed Government housing services for enlisted personnel at Fort Polk, LA can best be accomplished through the 801 Build-to-Lease Program. As indicated in paragraph II.B., there are insufficient existing community assets to

permit individual service members to readily acquire needed housing in the local area. Without any increases in available community assets, greater demand for off-post housing would most certainly have varying undesirable community impacts. The 801 Lease Program is the least costly feasible alternative and would best serve the Army housing requirements at Fort Drum.

II. Detailed Summary

A. Background

Fort Polk is home for the 5th Infantry Division and other support and tenant units. These units have been tasked to maintain a combat ready posture in support of national defense objectives.

The main cantonment area for Fort Polk is situated eight miles southeast of Leesville, LA, twenty miles north of DeRidder, LA, and three miles east of U.S. Highway 171. The current population of nearby Leesville exceeds 20,000 with a parish (Vernon) population of 58,220. DeRidder's population approximates 15,000 with its parish population (Beauregard) listed at 32,500. An area map which displays the locations of these communities with respect to Fort Polk is presented in Figure 1.

B. Housing Requirement

Provisions set forth in the Build-To-Lease Program specify that an agreement may be entered into only when validated military housing deficits exist. Application of this requirement substantiates the need for additional family housing facilities in the Fort Polk area.

Pertinent housing statistics on Fort Polk contained in DD Form 1377, 1378 and 1379, dated 30 May 1986, are listed in Appendix C. Summary information extracted from these forms is presented in Table 2.

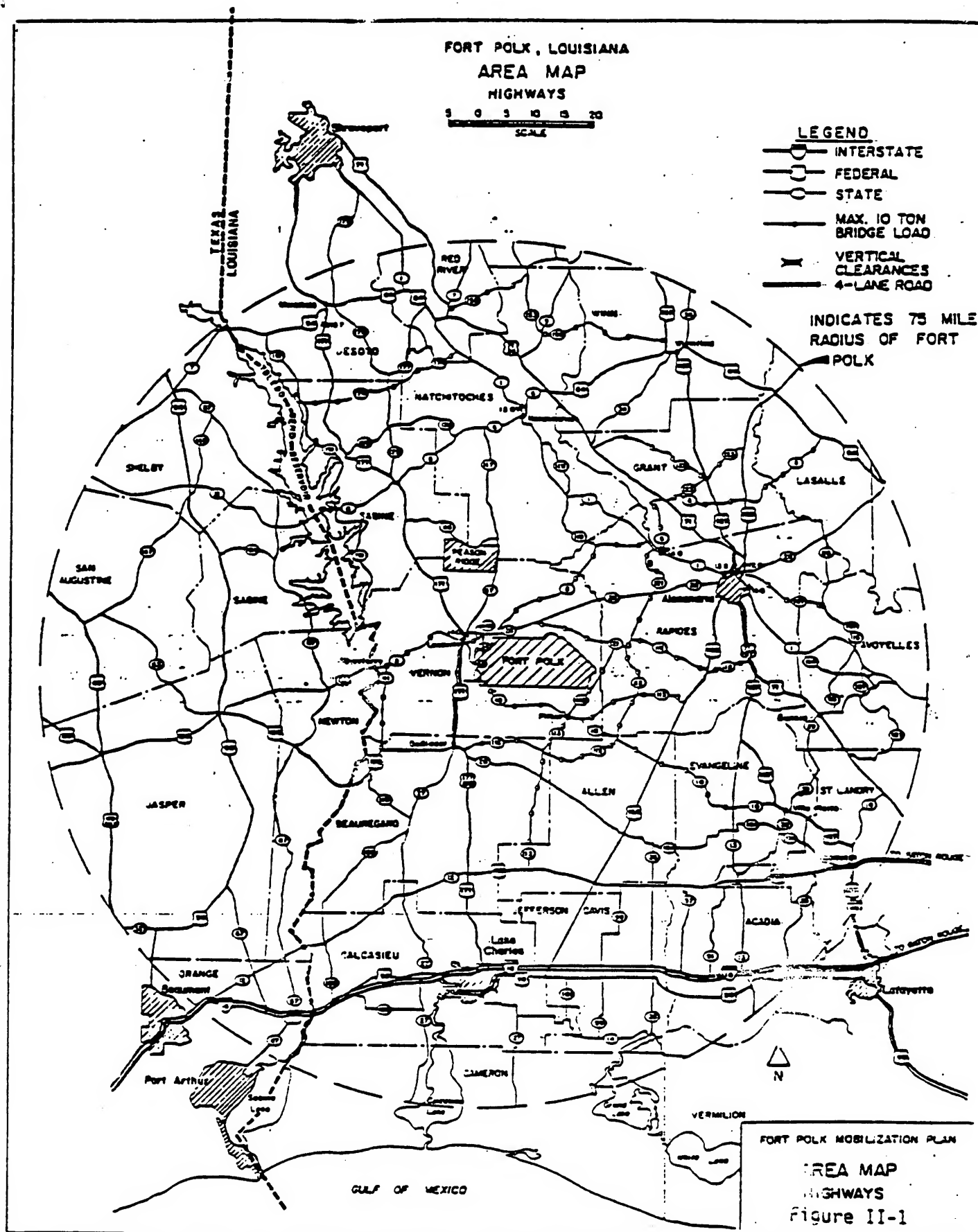
Table 2

Housing Requirements
O-3 through O-1 and E-9 through E-4 (Eligible)

Item	<u>Existing Assets</u> <u>Accompanied</u>		Total
	Company Grade	Enlisted Grade	
Effective requirement	892	6,336	7,228
Military Housing	(210)	(3,096)	(3,306)
Off-Post housing	(472)	(1,397)	(1,869)
Surplus/deficit	210	1,843	2,053

SOURCE: DD Forms 1377, 1378, and 1379 dated 30 May 1986.

FIGURE 1



C. Calculations for Each Alternative

1. Figure 2 depicts project summary data.

2. A year-by-year display of the calculation results for the two alternatives is shown in Table 3 (Project/Program Costs). For each alternative, the table shows, in current 1986 dollars, the following items on an annual basis over the 21-year analysis period.

- a. The estimated amount for each expense element.
- b. The total of all expense elements ("TOTAL ANNUAL OUTLAYS").
- c. The present value of all expense elements ("NET PRESENT VALUE").
- d. The present value of all expense elements through indicated year ("CUMULATIVE NET PRESENT VALUE").
- e. The cumulative present value of costs through given year less present value of residual for given year ("CUMULATIVE NET DISCOUNTED P.V.").
- g. The annualized cost (equivalent uniform annual amount for the 21-year period of analysis).

Figure 3 (Comparison Plot) graphically depicts in cumulative net present worth values of outlays for the two alternative throughout the period of analysis.

FIGURE 2

PROJECT SUMMARY DATA

GENERAL DATA

LOCATION	FORT POLK LA
NUMBER OF UNITS	300
STARTING FY	1986
DISCOUNT RATE	9.6%
INFLATION RATE	OMB/OSD FEB 86

MCA DATA

LAND COST	\$326,700
CONSTRUCTION COST	\$19,302,000
M&R COST	\$879/UNIT (1st YEAR)
	\$1,504/UNIT (20th YEAR)
EQUIPMENT	
SERVICE	\$15/UNIT/YR
REPLACEMENT	\$1,026 (10th Yr)
IMPUTED INSURANCE	\$35/UNIT
REAL ESTATE TAX RATE	.08413 x 10% ASSESSED VALUE
RESIDUAL VALUE	
DETERIORATION FACTOR	.72197
INFLATION	1.6566
LAND APPRECIATION FACTOR	1.38756

LEASE DATA

SHELTER RENT	\$1,485,684
MAINTENANCE RENT	\$389,988
PROPOSED BUILDING COST	\$19,300,000
REAL ESTATE TAX RATE	.08413 X 10% ASSESSED VALUE
REAL ESTATE TAX INCREASE	80%
DEVELOPERS TAX BRACKET	46%
CAPITAL GAINS TAX RATE	28%

RESULTS

MCA NPV =	\$18,784,727
801 NPV =	\$17,235,204

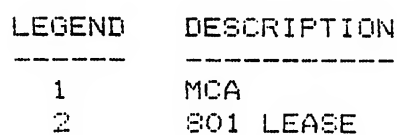
PROJECT/PROGRAM COSTS					TABLE 3		PROJECT/PROGRAM COSTS		
YEAR	SHELTER RENT (01)	MAINTENANCE RENT (02)	ACCELERATED DEPRECIATION SCHEDULE (03)	PAYABLE R.E. TAX INCREASE (04)	FEDERAL TAX REV GAIN (05)	TOTAL ANNUAL OUTLAYS	DISCOUNTED PRESENT VALUE	CUMULATIVE NET DISC P.V.	
1986	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
1987	\$742,842	\$202,013	\$665,919	\$0	\$0	\$944,855	\$823,473	\$823,473	
1988	\$1,485,684	\$416,956	\$577,130	\$0	\$0	\$2,568,559	\$2,042,505	\$2,865,979	
1989	\$1,485,684	\$428,631	\$488,341	\$0	\$0	\$2,491,445	\$1,807,650	\$4,673,629	
1990	\$1,485,684	\$438,918	\$488,341	\$3,073	\$0	\$2,416,016	\$1,599,382	\$6,273,012	
1991	\$1,485,684	\$449,013	\$399,551	\$6,144	\$0	\$2,340,392	\$1,413,613	\$7,686,625	
1992	\$1,485,684	\$459,340	\$310,762	\$9,216	\$0	\$2,265,002	\$1,248,245	\$8,934,871	
1993	\$1,485,684	\$469,905	\$310,762	\$12,398	\$0	\$2,278,749	\$1,145,822	\$10,080,694	
1994	\$1,485,684	\$480,713	\$221,973	\$15,689	\$0	\$2,204,059	\$1,011,191	\$11,091,836	
1995	\$1,485,684	\$491,769	\$221,973	\$19,090	\$0	\$2,218,516	\$928,672	\$12,020,558	
1996	\$1,485,684	\$503,080	\$221,973	\$22,490	\$0	\$2,233,227	\$852,947	\$12,873,505	
1997	\$1,485,684	\$514,651	\$221,973	\$26,001	\$0	\$2,248,309	\$783,492	\$13,656,997	
1998	\$1,485,684	\$526,488	\$221,973	\$29,511	\$0	\$2,263,656	\$719,744	\$14,376,742	
1999	\$1,485,684	\$538,597	\$221,973	\$33,241	\$0	\$2,279,495	\$661,296	\$15,038,039	
2000	\$1,485,684	\$550,985	\$133,184	\$36,971	\$0	\$2,206,824	\$584,137	\$15,622,176	
2001	\$1,485,684	\$563,658	\$133,184	\$40,811	\$0	\$2,223,337	\$536,959	\$16,159,136	
2002	\$1,485,684	\$576,622	\$133,184	\$44,651	\$0	\$2,240,141	\$493,629	\$16,652,765	
2003	\$1,485,684	\$589,884	\$133,184	\$48,710	\$0	\$2,257,462	\$453,874	\$17,106,640	
2004	\$1,485,684	\$603,451	\$133,184	\$52,769	\$0	\$2,275,088	\$417,352	\$17,523,993	
2005	\$1,485,684	\$617,331	\$133,184	\$56,938	\$0	\$2,293,137	\$383,817	\$17,907,810	
2006	\$1,485,684	\$631,529	\$0	\$61,217	-\$6,582,728	-\$4,404,297	-\$672,605	\$17,235,204	

TABLE 3

YEAR	PROJECT/PROGRAM COSTS					PROJECT/PROGRAM COSTS					DISCOUNTED PRESENT VALUE	CUMULATIVE NET DISC P.V.
	INITIAL CONSTRUCTION COSTS (01)	IMPLICIT LAND VALUE (02)	MAINTENANCE AND REPAIR (03)	EQUIPMENT COSTS (04)	IMPUTED INSURANCE (05)	RESIDUAL VALUE (06)	IMPUTED PROPERTY TAX (07)	ADMIN (08)	TOTAL ANNUAL OUTLAYS			
1986	\$0	\$326,700	\$0	\$0	\$0	\$0	\$0	\$0	\$326,700	\$312,064	\$312,064	
1987	\$9,651,000	\$0	\$136,596	\$2,330	\$5,438	\$0	\$88,740	\$33,203	\$9,917,311	\$8,643,270	\$8,955,334	
1988	\$9,651,000	\$0	\$293,161	\$4,811	\$11,226	\$0	\$189,021	\$68,532	\$10,217,753	\$8,125,105	\$17,080,440	
1989	\$0	\$0	\$312,910	\$4,945	\$11,540	\$0	\$194,314	\$70,451	\$594,162	\$431,090	\$17,511,530	
1990	\$0	\$0	\$332,237	\$5,064	\$11,817	\$0	\$198,977	\$72,142	\$620,240	\$410,593	\$17,922,124	
1991	\$0	\$0	\$351,622	\$5,181	\$12,089	\$0	\$203,554	\$73,801	\$646,249	\$390,339	\$18,312,463	
1992	\$0	\$0	\$372,077	\$5,300	\$12,367	\$0	\$208,236	\$75,499	\$673,480	\$371,155	\$18,683,619	
1993	\$0	\$0	\$393,286	\$5,422	\$12,651	\$0	\$213,025	\$77,235	\$701,622	\$352,796	\$19,036,415	
1994	\$0	\$0	\$414,905	\$5,546	\$12,942	\$0	\$217,925	\$79,012	\$730,332	\$335,066	\$19,371,482	
1995	\$0	\$0	\$437,688	\$5,674	\$13,240	\$0	\$222,937	\$80,829	\$760,370	\$318,291	\$19,689,773	
1996	\$0	\$0	\$461,300	\$5,804	\$13,544	\$0	\$228,065	\$82,683	\$791,403	\$302,264	\$19,992,038	
1997	\$0	\$0	\$485,766	\$426,521	\$13,856	\$0	\$233,310	\$84,590	\$1,244,045	\$433,525	\$20,425,563	
1998	\$0	\$0	\$510,709	\$6,075	\$14,175	\$0	\$238,676	\$86,535	\$856,172	\$272,225	\$20,697,789	
1999	\$0	\$0	\$536,956	\$6,214	\$14,501	\$0	\$244,166	\$88,526	\$890,365	\$258,300	\$20,956,090	
2000	\$0	\$0	\$563,717	\$6,357	\$14,834	\$0	\$249,782	\$90,562	\$925,254	\$244,910	\$21,201,001	
2001	\$0	\$0	\$592,292	\$6,503	\$15,175	\$0	\$255,527	\$92,645	\$962,144	\$232,368	\$21,433,369	
2002	\$0	\$0	\$620,996	\$6,653	\$15,524	\$0	\$261,404	\$94,775	\$999,355	\$220,214	\$21,653,584	
2003	\$0	\$0	\$651,161	\$6,806	\$15,881	\$0	\$267,416	\$96,955	\$1,038,222	\$208,740	\$21,862,324	
2004	\$0	\$0	\$682,385	\$6,963	\$16,247	\$0	\$273,567	\$99,185	\$1,078,348	\$197,817	\$22,060,141	
2005	\$0	\$0	\$714,226	\$7,123	\$16,620	\$0	\$279,859	\$101,467	\$1,119,297	\$187,343	\$22,247,485	
2006	\$0	\$0	\$747,521	\$7,287	\$17,003	-\$23,836,448	\$286,295	\$103,800	-\$22,674,539	-\$3,462,757	\$18,784,727	

3

CUMULATIVE NET PRESENT VALUE



D. Sensitivity Analysis

1. Introduction

Sensitivity analyses were conducted primarily to determine the extent to which the study findings would be affected by altering the input data. Since varying levels of certainty and confidence apply to the assumptions, changes were made in each of the key assumptions to determine their sensitivity on the ranking of alternatives.

2. Sensitivity Test Results

Comparison of the two alternatives revealed that the least costly option would be the 801 Build-to-Lease Program. A number of sensitivity tests were performed for the two options. As a result, three variables were identified to be somewhat sensitive to cost changes.

Comparison of the alternatives revealed that new construction would become the least cost alternative if:

- * the construction cost was reduced by 9.67% from \$19,302,000 to \$17,435,497.

- * the Shelter Rent was increased by 13.28% from \$1,485,684 to \$1,682,983.

- * the Maintenance Rent was increased by 40.63% from \$389,988 to \$548,440.

- * the maintenance and repair was reduced by 46.09% from \$326,400 to \$175,962.

- * the Real Estate Tax was increased by 62.50% from \$3,073 to \$4,994.

The result of these analyses are submitted in Table 3

TABLE 4

CHANGES IN COST ELEMENTS TO RANK
MCA CONSTRUCTION AS LEAST COSTLY

Cost Elements	Required Changes (Percent)
Construction Cost	-9.67
Maintenance and Repair	-46.09
R.E. Tax Rate	62.50
Shelter Rent	13.28
Maintenance Rate	40.63

Table 5 summarizes the calculation results for cumulative net discounted present value for each of the 21 years of the period of analysis.

TABLE 5

S U M M A R Y O F C A L C U L A T I O N R E S U L T S. P A G E 1
N E T D I S C O U N T E D P R E S E N T V A L U E

TRADITIONAL ARMY FAMILY HOUSING (MILCON) VRS 801

ALTERNATIVE -----	FY1986 -----	FY1987 -----	FY1988 -----
MCA	\$312,064	\$8,955,334	\$17,080,440
801 LEASE	\$0	\$823,473	\$2,865,979

ALTERNATIVE -----	FY1989 -----	FY1990 -----	FY1991 -----
MCA	\$17,511,530	\$17,922,124	\$18,312,463
801 LEASE	\$4,673,629	\$6,273,012	\$7,686,625

ALTERNATIVE -----	FY1992 -----	FY1993 -----	FY1994 -----
MCA	\$18,683,619	\$19,036,415	\$19,371,482
801 LEASE	\$8,934,871	\$10,080,694	\$11,091,886

ALTERNATIVE -----	FY1995 -----	FY1996 -----	FY1997 -----
MCA	\$19,689,773	\$19,992,038	\$20,425,563
801 LEASE	\$12,020,558	\$12,873,505	\$13,656,997

ALTERNATIVE -----	FY1998 -----	FY1999 -----	FY2000 -----
MCA	\$20,697,789	\$20,956,090	\$21,201,001
801 LEASE	\$14,376,742	\$15,038,039	\$15,622,176

ALTERNATIVE -----	FY2001 -----	FY2002 -----	FY2003 -----
MCA	\$21,433,369	\$21,653,584	\$21,862,324
801 LEASE	\$16,159,136	\$16,652,765	\$17,106,640

ALTERNATIVE -----	FY2004 -----	FY2005 -----	FY2006 -----
MCA	\$22,060,141	\$22,247,485	\$18,784,727
801 LEASE	\$17,523,993	\$17,907,810	\$17,235,204

** U N I F O R M A N N U A L E Q U I V A L E N T S **

- | | |
|--------------|-------------|
| 1. MCA | \$2,111,320 |
| 2. 801 LEASE | \$1,937,161 |

E. Methodology and Assumptions

1. General

Investigations were made to determine the expense elements which should be addressed in the two alternatives investigated. The development of expense estimates is detailed in Appendix A of this report. Calculations were performed to estimate the present value of the stream of future expenditures required for the implementation of each alternative. Computer outputs were then generated which display the projected cost per year with estimated inflationary effects (current 1986 dollar analysis), present value per year, cumulative present value per year, and cumulative present value net of residual (terminal, or salvage value) for each year. Cost elements considered are shown at Table 5.

TABLE 6
SUMMARY OF COST ELEMENTS

<u>Cost Elements</u>	<u>Alternatives</u>	
	<u>MCA Construction</u>	<u>Build to Lease</u>
Construction Cost	X	
Payment of Allowances (BAQ, VHA)	W	W
Maintenance and Repair	X	
Equipment	X	
Imputed Insurance	X	
801 Lease Cost (SR, MR)		X
Real Estate Tax Increase (80%)		X
Utilities	W	W
Land Value	X	
Administration	X	
Residual Value	X	
Accelerated Depreciation Advantage		X
Imputed Real Estate Tax	X	

X-Calculated and used in the analysis W-Considered a wash

2. Assumptions

a. A discount rate of 9.6 percent is applied (per OMB and OSD guidelines) to determine the present value of current dollar expenditures.

b. Discount calculations for expense elements were performed using mid-year convention.

c. Price level changes due to inflation are included in this analysis. OMB/OSD inflation rate guidelines are utilized on all applicable cost items. Initial input cost element variables are based on various price levels. All cost elements are adjusted to reflect FY 86 price levels using the inflation rate guidelines presented in Appendix B of this report.

d. The most probable structure life for the MCA construction alternative is estimated at 40 years for the purpose of calculating a residual value at the end of the period of analysis. This residual value is computed using the building decay-obsolescence schedule contained in Appendix B, OMB circular A-104.

e. Residual value is considered in the analysis (See Appendix A.).

f. Expense elements which would be the same (ie: utilities costs) are considered "wash" costs and are not included in the comparative cost analysis.

g. The length of the analysis period is 21 years (FY 86 through FY 06).

h. New housing would be constructed on land provided by the proposers.

i. The 801 Program assumes 18-year accelerated depreciation with preferential tax treatment.

j. A market value/demand for the housing facilities was assumed to exist beyond analysis period (2006) to estimate implied value.

k. A scheduled BOD set to occur upon completion and acceptance of the entire project by the Government in FY 88.

l. That the owner/developer of the 801 Housing will retain ownership of the project for the 20 year lease term and then sell the project to a non-Government buyer. The sale is assumed to be completed at the end of the last fiscal year of the analysis period.

APPENDIX A

DETAILED COST ELEMENT BUILD-UP

I. Introduction.

This section of the report describes the procedures followed in the derivation of cost items included in these economic analyses. The resultant figures were used in calculating present value cost estimates for the various alternatives investigated.

II. Cost Element Items.

A schedule of the major cost elements for each of the alternatives was previously shown in year-by-year detail in Table 3. The schedule reflects FY 86 price levels and spans the 21-year period of analysis (FY 06).

III. Cost Element Details.

A. Construction Cost: MCA

MCA construction costs were based on estimates developed by the Army Family Housing Management Division, U.S. Army Corps of Engineers, using the Tri-Service Cost Model (Table A-1). Under this alternative, it was assumed that new housing units would be built on post.

<u>Fiscal Year</u>	<u>Annual Cost</u>
87	9,651,000
88	9,651,000

B. 801 Build to Lease - Shelter Rent

The cost is taken from the actual preferred proposal for this project. Units accepted by the Government will be leased for a 20 year rental term.

Shelter rent was calculated as follows:

SHELTER RENT

START UP				
YEAR	# OF UNITS	MONTHS	\$/MONTH	COST
1987	300	6	\$412.69	\$742,842.00
TOTAL FOR 1987 = \$742,842.00				
FYs 88 to 06 = \$1,485,684.00				

C. Land Cost (Imputed Value of Government Property) MCA Construction

The proposed build to lease alternative involves the of off-post land provided by the proposer. Land costs under this alternative are included in the estimated monthly costs contained in the selected proposal (see Appendix A, paragraph III. B.).

Housing facilities constructed under the MCA Program are normally sited on Government-owned lands. As such, no actual cash outlays occur to the Government to obtain the needed lands, however, there is an implicit value for their use. Facilitating equal comparison between the two housing alternatives required that an implied land value be assumed under the MCA alternative.

If excessed, it is estimated that installation lands would sell for about \$4,500 per acre. This figure multiplied by 72.6 acres (number of acres of land proposed in the 801 option) yields a land cost of \$326,700 in FY 87. This expense element would not be subject to inflationary effects.

D. Utilities: MCA Construction and 801 Lease

Utility expenses for both alternatives will be equal and are considered wash costs.

E. Maintenance and Repair: MCA Construction

Estimates for maintenance and repair (M&R) costs on the MCA alternative were based on the assumption that these costs would be similar to the current installation expenses on units of comparable size and age. Further adjustments in these costs were made to reflect anticipated higher maintenance costs due to increased physical deterioration in future years. Historical M&R data (1982-1984) were obtained for units in the family housing inventory at Fort Polk. Examination of this data revealed that average maintenance costs increased with structural age.

The furnished FY 83 average costs of \$978/unit (for units 0 to 13 years old) and \$1,535 (for units 14 to 33 years old) inflated to current (FY 86) dollars indicate \$1,102 and \$1,730 respectively. Linear regression yields the following formula: $Y = 862 + 36.94 X$ (CONUS wide average). These costs are assumed to apply to the median

ages of 6.5 and 23.5 years for the two classes of units. Applying the Fort Polk area cost factor of .94, a linear model can be developed: $Y = 810 + 36.94 X$.

MAINTENANCE AND REPAIR			
FY	\$/UNIT	# UNITS	TOTAL
1986	0	150	\$ 0
1987	\$ 879	300	\$131,850
1988	\$ 914	300	\$274,200
1989	\$ 949	300	\$284,700
1990	\$ 984	300	\$295,200
1991	\$1,018	300	\$305,400
1992	\$1,053	300	\$315,900
1993	\$1,088	300	\$326,400
1994	\$1,122	300	\$336,600
1995	\$1,157	300	\$341,100
1996	\$1,192	300	\$357,600
1997	\$1,227	300	\$368,100
1998	\$1,261	300	\$378,300
1999	\$1,296	300	\$388,806
2000	\$1,330	300	\$399,000
2001	\$1,366	300	\$409,800
2002	\$1,400	300	\$420,000
2003	\$1,435	300	\$430,500
2004	\$1,470	300	\$441,000
2005	\$1,504	300	\$451,200
2006	\$1,538	300	\$461,616

At first glance, this approach would appear to yield costs which are too high in the initial years of project life. This is explained by noting that the BP 1920 cost account from which these costs are obtained includes a reserve for replacing units lost by fire, flood and other hazards. Thus, this M&R cost includes an expense that a private developer would pay as a part of his insurance cost. It should be noted that this cost does not include the cost of deferred maintenance or rehabilitation and is, therefore, considered more reliable than installation average costs which often include these items.

This cost category is considered subject to both real growth (caused by aging of the units), and inflationary growth. Costs have been projected accordingly. In addition, these costs are assumed to begin at delivery of the units.

F. Maintenance and Repair: 801 Build-to-Lease

This cost element is also taken directly from the preferred proposal for this project and is intended to include the developer's cost to maintain and repair the project. This rent is to be increased or decreased at the beginning of the second and subsequent years of the lease based on the increase or decrease of the Housing, Shelter, Maintenance and Repair Index for the preceding twelve months of the "Economic Indicators" prepared for the Joint Economic Committee of the Congress by the Council of Economic Advisors. For the purpose of the economic analysis it is assumed that the OMB/OSD inflation indexes supplied will equate to changes in the "Economic Indicators" for the analysis period. The rental costs were calculated as follows:

MAINTENANCE RENT STARTUP				
YEAR	# OF UNITS	MONTHS	\$ / MONTH	COST
1987	150	6	\$108.33	\$194,994
TOTAL FOR 1987:				\$194,994
1989	300	12	\$108.33	\$389,988
FYs 88 to 06 =				\$389,988

G. Equipment Costs: MCA Construction

Under this alternative, new refrigerators, ranges, and ovens would be installed in the new housing units. Since appliances vary in size and capacity, average size requirements were established based on the anticipated grade distribution. Further, it would be expected that these appliances would require periodic repair with eventual replacement once over the life of the project. Periodic service calls were programmed such that every two dwelling units received one call per year at a cost of \$30.00 per call. A schedule of the annual expenditures for equipment is present below:

FISCAL YEAR	ITEM	NUMBER OF UNITS	ANNUAL COST/UNIT	ANNUAL EXPENDITURES ¹
86	Initial Issue	0	\$ 0.00 ²	\$ 0.00 ²
87	Service Calls	75	30.00	2,250.00
88-98	Service Calls	150	30.00	4,500.00
98	Replacement	300	1,077.36	323,206.00
99-06	Service Calls	150	30.00	4,500.00

1 Does not reflect projected annual inflationary price increases.

2 Subject equipment included in initial construction costs.

H. Capital Gains Tax Revenue Gained: 801 Lease

Estimates of the Federal Capital Gains Tax Revenue under the Section 801 Alternative are based on the assumption that the developer/contractor of the Section 801 housing will retain ownership of the project for the 20 year lease term and then sell the project to a non-Government buyer. Revenues received from the sale would be taxed as capital gains and would reduce the Section 801 costs by generating tax revenue.

The value of structure is generally assumed to decline over time, reflecting its use and physical deterioration. However, the value of land is assumed to increase with time. Therefore, the market values of the improvements (buildings) and the land are computed using the improvement decay and obsolescence rate of -1.7% per year after inflation, cited in Appendix B of OMB Circular A-104 revised, 1 June 1986.

Capital gain is figured based on the value of the property received less the owner's basis for the property. Under assumed ACRS tax depreciation the owner would be able to lease, so the only remaining basis is the original land cost. The capital gains tax rate is assumed to be 28%. This cost was calculated as follows:

FEDERAL TAX REVENUE			
IMPROVEMENTS		LAND	
FY 87 COST	\$19,302,000	FY 87 COST	\$326,700
X INFLATION		X INFLATION	
TO 2006	1.6566	TO 2006	1.6566
2006 COST	\$31,975,693	2006 COST	\$541,211
BLDG. OBSL.	.72197	SITE APPRC.	1.38756
IMPV. RESID.	\$23,085,485	SITE RESID.	\$750,963
PROPERTY VALUE (2006)		\$23,836,448	
ORIGINAL LAND COST		\$326,700	
TAXABLE CAPITAL GAIN		\$23,509,748	
X TAX RATE		.28	
FEDERAL TAX REVENUE		\$6,582,729	

I. Housing Allowances: MCA Construction and 801 Lease

No costs are included in this category as these units are assumed to be delivered on the same schedule as the 801 alternative. The allowances paid to families awaiting delivery of the units will, therefore, be the same in each alternative and are considered "wash" costs.

J. Increase in Real Estate Taxes: 801 Lease

The Request for Proposals on each project specifies that the Government will pay 80% of any increase in total general real estate taxes over those levied in the second lease year. Since the present schedule calls for the units to be delivered in FY 88, FY 89 is considered the second year of the lease and consequently the base year for any increase in real estate taxes.

<u>Tax Entity</u>	<u>Effective Tax Rate (mills)¹</u>
Vernon Parish	19.05
Leesville Schools	47.66
Law Enforcement	<u>17.42</u>
	84.13 = 0.08413/dollar valuation

1 The above rates were applied based on 10 percent of the estimated fair market value.

SOURCE: Preliminary Economic Analysis, Fort Polk, Louisiana, Wilson Stoeltje Martin, Inc., June 1984.

\$16,300,000	X	10%	X	0.08413	=	\$137,132
(Est. Constr Cost)		(Assessed Valuation)		(Mill Rate)		(Est. Tax Cost)

The above costs were indexed to the first full year following BOD (FY 88) for the purpose of calculating increases in the applicable real estate taxes due and payable in FY 90.

REAL ESTATE TAX

Cost/Unit (85)	54,333	
X Units	300	
Prop Value	16,300,000	
X 85 Tax Rate	0.08413	(Rates based on 10% Assessed Valuation)
= 85 Tax	137,132	
X Infl. to 89	1.181	
= Base Yr Tax	161,952	

	INFLATION	TOTAL LOCAL	INCREASE	TAXES DUE
FY	FACTOR	TAXES DUE	FROM FY 89	(.8 OF TOTAL)
85	1.000	137,132	-	-
89	1.181	161,952	-	-
90	1.209	165,793	3,841	3,073
91	1.237	169,632	7,680	6,144
92	1.265	173,472	11,520	9,216
93	1.294	177,449	15,497	12,398
94	1.324	181,563	19,611	15,689
95	1.355	185,814	23,862	19,090
96	1.386	190,065	28,113	22,490
97	1.418	194,453	32,501	26,001
98	1.450	198,841	36,889	29,511
99	1.484	203,504	41,552	33,241
2000	1.518	208,166	46,214	36,971
01	1.553	212,966	51,014	40,811
02	1.588	217,766	55,814	44,651
03	1.625	222,840	60,888	48,710
04	1.662	227,913	65,961	52,769
05	1.700	233,124	71,172	56,938
06	1.739	238,473	76,521	61,217

K. Insurance Costs: MCA Construction

The insurance cost element includes the imputed cost of liability insurance only. Structure replacement is covered under the Maintenance and Repair cost element as noted. Costs included in this element represent localized commercial liability rates. The estimated rate was \$35.00/dwelling unit/year in FY 86.

Costs were calculated as follows:

INSURANCE COST				
FY	# UNITS	\$/UNIT/YR	# YEARS	
87	150	\$35	1	\$5,250
88-06	300	\$35	1	\$10,500

L. Administration: MCA Construction

Operation expenses included in the 801 Program provided for the services of an on-site manager, inspector, and maintenance technician to insure that the dwelling units are operated and maintained in accordance with the terms of the lease. Such expenses are implicitly built into the developer's proposal costs. Since installation housing management services currently exist, under the MCA option, the Government would only have to expand these services. It is estimated that two additional employees will be required for this purpose. This cost would include salary and overhead costs for these personnel and was estimated to be \$64,100 per year.

M. Residual Value: MCA Construction

This residual value element represents the value which the Government will retain in the property it owns outright at the end of the twenty-one year analysis period. This value was computed by use of the Building Decay-Obsolescence and Site Appreciation factors promulgated in Appendix B of OMB Circular A-104 revised, dated 1 June 1986. Construction cost and site cost are treated separately in order to apply different factors to each. Both were inflated based on OMB/OSD indices to FY 2006 dollars prior to application of these factors. The residual value was computed as follows:

RESIDUAL VALUE			
IMPROVEMENTS		LAND	
FY 87 COST	\$19,302,000	FY 87 COST	\$326,700
X INFLATION		X INFLATION	
TO 2006	1.6566	TO 2006	1.6566
2006 COST	\$31,975,693	2006 COST	\$541,211
BLDG. OBSL.	.72197	SITE APPRC.	1.38756
IMPV. RESID.	\$23,085,485	SITE RESID.	\$750,963
RESIDUAL VALUE \$23,836,448			

N. Accelerated Depreciation Advantage: 801 Lease

It is assumed that this Section 801 housing project will be depreciated using the Accelerated Cost Recovery System (ACRS) as structured in present tax law. This is considered preferential tax treatment. OMB Circular A-104 revised, dated 1 June 1986, requires that tax preference be treated as a cost to the Government to the extent that it differs from "normal" income tax treatment. As in the Capital Gains Tax element, the developer's depreciation has been based on 100% of the MCA construction cost. For the purpose of this analysis, this difference was calculated by subtracting the annual depreciation available under the "normal" 40 year straight line depreciation from that available under ACRS. The difference was then multiplied by the highest marginal corporate tax rate of 46%. The

result is considered a cost to the Government for that year. Based on this method these costs were calculated as follows:

<u>Fiscal Year</u>	<u>Accelerated Depreciation Schedule</u>	<u>Straight-Line Depreciation Schedule</u>	<u>Percent Difference</u>	<u>Advanced Depreciation Difference¹</u>	<u>Estimated Tax Loss to the Gov't²</u>
86	-	-	-	-	-
87	-	-	-	-	-
88	.10	.025	.075	1,447,650	665,919
89	.09	.025	.065	1,254,630	577,130
90	.08	.025	.055	1,061,610	488,341
91	.07	.025	.045	868,590	399,551
92	.06	.025	.035	675,570	310,762
93	.06	.025	.035	675,570	310,762
94	.05	.025	.025	482,550	221,973
95	.05	.025	.025	482,550	221,973
96	.05	.025	.025	482,550	221,973
97	.05	.025	.025	482,550	221,973
98	.05	.025	.025	482,550	221,973
99	.05	.025	.025	482,550	221,973
2000	.04	.025	.015	289,530	133,184
01	.04	.025	.015	289,530	133,184
02	.04	.025	.015	289,530	133,184
03	.04	.025	.015	289,530	133,184
04	.04	.025	.015	289,530	133,184
05	.04	.025	.015	289,530	133,184
06	.00	.025	0	0	0

¹Initial construction costs multiplied by percent difference.

²Tax loss calculated by multiplying advanced depreciation difference by 46% tax rate (OMB Guidance).

. O. Imputed Real Estate Taxes

This cost is the imputed cost to the Government of the services and overhead involved with the construction of additional residential areas on-post. Family housing requires additional operating funds to cover security, recreation, traffic control, landscaping, and other public expenses. While the direct cost of utilities and other services (garbage collection, entomological, custodial, etc.,) are considered in a separate cost account, these indirect costs are measured by calculating the local Real Estate Tax the Government would have to pay, if this on-post project were under the jurisdiction of the local taxing authorities, in accordance with OMB Circular A-104.

Tax estimates were then developed as follows:

IMPUTED PROPERTY TAX

 \$19,302.00
 - SIOH
 \$18,295,515

\$18,295,515 X 10% X 0.08413 = \$153,920 (FY 84)
 (ASSESSED VALUATION) (MILL RATE)

RATES BASED ON 10% FAIR MARKET VALUE

 87 \$171,314
 88-06 \$176,796

TABLE A-1

FY 1986 TRI-SERVICE FAMILY HOUSING COST MODEL

SERVICE	Army	LOCATION	Ft. Polk, Louisiana
BASELINE:			
(300)	(1,013)	(46)	= \$13,979,400
(No. Units)	(ANSF)	(\$/NSF)	= <u>5' Line Cost</u>
PROJECT FACTORS:			
(.94)	(.98)	(1)	= .92
(ACF)	(Project Size)	(Unit Size)	= <u>Project Factor</u>
HOUSING COST:			
(13,979,400)	(.92)		= \$12,861,000
(5' Line Cost)	(Project Factor)		= <u>Adjusted 5' Line Cost</u>
(2,500)	(.94)	(300)	= \$ 705,000
(Solar Unit Cost)	(ACF)	(Units)	= <u>Total Project Solar Cost</u>
(12,861,000)	+(705,000)		= \$13,566,000
(Adjusted 5' Line Cost)	+(Solar)		= <u>Housing Cost</u>
SUPPORTING COST:			
Site preparation			
Roads and paving		(30% of Adj 5' Line Cost)	
Utilities			
Recreation			
Landscaping			
Special Construction			
			= \$3,858,300
			= <u>Support Cost</u>
SUMMARY:			
(13,566,000)	+(3,858,300)		= \$17,424,300
(Housing Cost)	+(Support Cost)		= <u>Subtotal</u>
(17,424,300)	(1.05)	(1.055)	= \$19,301,768
(Subtotal)	(Contingency)	(SIOH)	= <u>Project Cost</u>
Say: \$19,302,000			
(Round)			
(19,302,000)	/ (300)	(1,013)	(.94) = \$ 67.6
(Project Cost)	/(No. Units)	(ANSF)	(ACF) = <u>Proj cost/sq ft/ACF</u>

ANSF - Average net square feet/unit.

ACF - Area Cost Factor

PROJECT SIZE - (No. Units)

1-49	units = 1.05
50-99	units = 1.02
100-199	units = 1.00
200-499	units = 0.98
500+	units = 0.95

UNIT SIZE - (Net Square Feet)

950-1050	= 1.00
1051-1150	= 0.99
1151-1250	= 0.98
1251-1350	= 0.97
1351+	= 0.96

APPENDIX B

INFLATION AND RESIDUAL FACTORS

I. Inflation. When appropriate, adjustments were made to place all the cost data at current dollar FY 86 price levels. As specified by DOD Comptroller via letter, dated 19 February 1986, based on OMB guidance of 27 December 1985, the inflation rate guidelines shown in Table B-1 were applied to adjust the cost elements to reflect FY 86 and all future price levels.

TABLE B-1
INFLATION RATE GUIDELINES

<u>Fiscal Year</u>	<u>Inflation Rate</u> (percent)
1986-87	3.6
1987-88	3.2
1988-89	2.8
1989-90	2.4
1990-2008	2.3

Source: OSD Comptroller letter, dated 19 February 1986.

II. Residual Factors. Calculations of a residual value of a particular item can sometimes be a critical element in an economic analysis. In the case of a structure, the residual value would be its net disposal value at the end of the project life. The residual value of a structure is generally thought to decline over time, reflecting its use, consumption, and/or physical deterioration.

For purposes of this economic analysis, Building Decay Obsolescence Factors were used to calculate residual value for the new construction alternative. Residual factors applicable to this method are listed in Table B-2. Initial construction cost was assumed to approximate new market value. Multiplying this amount by a selected residual factor yields the estimated residual value (in FY 86 prices) for the selected year.

TABLE B-2
RESIDUAL FACTORS

<u>Period of Analysis</u>	<u>Building Decay- Obsolescence Factors*</u>	<u>Site Appreciation Factors</u>
1	0.98300	1.01500
2	0.96629	1.03023
3	0.94986	1.04568
4	0.93371	1.06136
5	0.91784	1.07728
6	0.90224	1.09344
7	0.88690	1.10984
8	0.87182	1.12649
9	0.85700	1.14339
10	0.84243	1.16054
11	0.82811	1.17795
12	0.81403	1.19562
13	0.80019	1.21355
14	0.78659	1.23176
15	0.77322	1.25023
16	0.76007	1.26899
17	0.74715	1.28802
18	0.73445	1.30734
19	0.72197	1.32695
20	0.70969	1.34686
21	0.69782	1.36706
22	0.68616	1.38756

*Factors presented implicitly assume end-of-year building decay-obsolescence and site appreciation changes.

Source: OMB A-104.

TABULATION OF FAMILY HOUSING SURVEY				REPORT CONTROL SYMBOL			
1. DATE OF SURVEY				DD FORM (A) 655			
OFFICERS				ELIGIBLE ENLISTED	CIVILIANS	TOTAL	
SUBTOTAL				OTHER ENLISTED		TOTAL	
2. TOTAL PERSONNEL STRENGTH				1317	8508	3225	13050
3. PERMANENT FAMILY HOUSING STRENGTH AND KEY CIVILIANS				1317	8508	0	9625
4. NUMBER OF FAMILIES				552	6052	0	7004
5. HOUSING ACCOMMODATIONS FACTOR				72.28	71.18	0.00	72.14
6. NOT LIVING WITH FAMILY (TOTAL: 7-10)				59	1502	0	1561
7. INVOLUNTARILY SEPARATED FAMILIES				1	542	0	543
8. IMPROPER MILITARY QUARTERS				11	430	0	441
9. IMPROPER MILITARY HOUSING				5	104	0	109
10. VOLUNTARILY SEPARATED FAMILIES				63	960	0	1023
11. LIVING WITH FAMILY IN AREA (TOTAL: 12-18)				843	4550	0	5393
12. SUITABLE HOUSING (SUBTOTAL: 12-18)				829	3698	0	4527
13. IN MILITARY CONTROLLED HOUSING				300	2570	0	2870
14. IMPROPER RENTING OFF POST				2	221	0	223
15. IMPROPER OWNING OFF POST				0	270	0	270
16. IN PRIVATE HOUSING				529	920	0	1449
17. IMPROPER MILITARY QUARTERS				127	210	0	337
18. IMPROPER RENTING OFF POST				89	220	0	309
19. UNSUITABLE HOUSING (SUBTOTAL: 20-23)				64	1052	0	1116
20. IN MILITARY CONTROLLED HOUSING				0	0	0	0
21. IMPROPER RENTING OFF POST				0	0	0	0
22. IMPROPER OWNING OFF POST				0	0	0	0
23. IN PRIVATE HOUSING (SUBTOTAL: 26-28)				64	1052	0	1116
24. IMPROPER MILITARY QUARTERS				22	540	0	562
25. IMPROPER RENTING OFF POST				27	289	0	316
26. EXCESS DISTANCE				6	114	0	120
27. SUBSTANDARD				58	928	0	986
28. EXCESS COST ONLY (LOW MAINT)				0	0	0	0
29. LESS THAN \$5				0	0	0	0
30. \$5 TO \$10				0	0	0	0
31. \$10 TO \$20				0	0	0	0
32. \$20 TO \$50				0	0	0	0
33. \$50 AND MORE				0	0	0	0
34. IN OWNER OCCUPIED HOUSES (TOTAL: 35-38)				317	328	0	645
35. SUITABLE IN ALL RESPECTS				205	252	0	457
36. UNSUITABLE (SUBTOTAL: 37-39)				12	76	0	88
37. EXCESS DISTANCE				4	61	0	65
38. SUBSTANDARD				8	15	0	23
39. EXCESS COST ONLY				0	0	0	0
40. IN OWNER OCCUPIED TRAILERS (TOTAL: 41-42)				60	274	0	334
41. SUITABLE IN ALL RESPECTS (ON Post)				34	236	0	270
42. UNSUITABLE (Subtotal: 43-45) (ON Post)				6	38	0	44
43. EXCESS DISTANCE				2	8	0	10
44. SUBSTANDARD (ON Post)				4	30	0	34
45. EXCESS COST ONLY (ON Post)				0	0	0	0
46. IN RENTED HOUSING OFF POST (TOTAL: 47-48)				235	137	0	372
47. SUITABLE IN ALL RESPECTS				120	440	0	560
48. UNSUITABLE (SUBTOTAL: 49-51)				46	930	0	976
49. EXCESS DISTANCE				7	45	0	52
50. SUBSTANDARD				46	823	0	869
51. EXCESS COST ONLY				0	0	0	0
52. IN MILITARY CONTROLLED HOUSING (TOTAL: 53-57)				300	2570	0	2870
53. ADEQUATE AS PUBLIC QUARTERS (Vacant)				2	300	0	302
54. MILITARY OWNED (Vacant)				2	300	0	302
55. MILITARY LEASED (Vacant)				0	0	0	0
56. MILITARY SPONSORED (Vacant)				0	0	0	0
57. INADEQUATE AS PUBLIC QUARTERS (Vacant)				0	0	0	0
58. VACANT HOUSING (TOTAL: 59-61)				11	12	0	23
59. PRIVATE RENTAL HOUSING				11	10	0	21
60. FMS AND VAMC RENTAL HOUSING				0	0	0	0
61. MILITARY HOUSING ADEQUATE AS PUBLIC QUARTERS				0	2	0	2
62. NUMBER OF UNSUITABLE UNITS INSPECTED				12	42	0	54
63. NUMBER OF INSPECTED UNITS RECLASSIFIED				5	2	0	7
64. ADJUSTMENT FACTORS				1.983	6.266	0.000	4.194
65. NAME AND LOCATION OF INSTALLATION				FIST POLK, LA			NAV U

DD FORM 1377
1 OCT 70
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PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE.

Page 1 of 2 Form

APPENDIX C
DD Form 1377 (continued)

POPULATION OF FAMILY HOUSING SURVEY						
	EFFECTIVE REQUIREMENTS		SUITABLE HOUSING		TOTAL # of	DEFICIT (a - d)
	NUMBER a	PERCENT b	MIL. CONTROL c	OFF. POST d		
56 0-10 THROUGH 5-0	20	0.3	0	10	20	0
57 1 OR 2 BEDROOMS	0	0.1	0	0	0	0
58 3 BEDROOMS	0	0.1	1	2	3	2
59 4 OR MORE BEDROOMS	0	0.1	0	0	0	0
60 0-10 THROUGH 5-0	171	4.8	60	104	164	7
61 1 OR 2 BEDROOMS	50	0.3	0	0	50	0
62 3 BEDROOMS	31	1.0	0	0	31	0
63 4 OR MORE BEDROOMS	90	0.7	60	20	80	10
64 0-10 THROUGH 5-0 AND 0-10 THROUGH 5-0	118	10.0	254	422	650	62
65 1 OR 2 BEDROOMS	508	8.5	100	338	456	10
66 3 BEDROOMS	154	2.6	60	70	130	10
67 4 OR MORE BEDROOMS	50	0.9	0	11	61	0
68 ALL OFFICER GRADES (TOTAL 66 + 70 + 70)	309	15.1	300	340	640	0
69 1 OR 2 BEDROOMS	564	9.4	100	314	474	0
70 3 BEDROOMS	400	0.0	67	120	187	0
71 4 OR MORE BEDROOMS	105	1.7	133	43	176	0
72 0-10 THROUGH 5-0	381	14.7	178	11	392	0
73 1 OR 2 BEDROOMS	321	5.2	0	0	321	0
74 3 BEDROOMS	338	3.9	310	0	648	0
75 4 OR MORE BEDROOMS	212	3.2	468	2	680	0
76 0-10 THROUGH 5-0 (Eligible)	4211	10.2	1794	727	2721	1490
77 1 OR 2 BEDROOMS	3218	23.0	1412	730	2205	1013
78 3 BEDROOMS	855	14.4	207	108	315	540
79 4 OR MORE BEDROOMS	120	2.1	170	20	201	0
80 ALL ELIGIBLE (TOTAL 76 + 80)	5072	34.9	2572	950	3510	1562
81 1 OR 2 BEDROOMS	3549	39.1	1412	197	2209	1340
82 3 BEDROOMS	1203	20.0	517	113	630	573
83 4 OR MORE BEDROOMS	320	3.7	643	20	663	343
84 ALL ELIGIBLE MILITARY (TOTAL 78 + 80)	6001	100.0	2872	1470	4340	1661
85 1 OR 2 BEDROOMS	4113	68.5	1412	1107	2601	1452
86 3 BEDROOMS	1443	24.0	584	250	834	609
87 4 OR MORE BEDROOMS	445	7.4	176	71	247	200
88 0-10 THROUGH 5-0	0	0.0	0	0	0	0
89 1 OR 2 BEDROOMS	0	0.0	0	0	0	0
90 3 BEDROOMS	0	0.0	0	0	0	0
91 4 OR MORE BEDROOMS	0	0.0	0	0	0	0
92 0-10 THROUGH 5-0	0	0.0	0	0	0	0
93 1 OR 2 BEDROOMS	0	0.0	0	0	0	0
94 3 BEDROOMS	0	0.0	0	0	0	0
95 4 OR MORE BEDROOMS	0	0.0	0	0	0	0
96 ALL ELIGIBLE (TOTAL 84 + 80 + 102)	6001	100.0	2472	1470	4350	1651
97 1 OR 2 BEDROOMS	4113	68.5	1412	1107	2601	1452
98 3 BEDROOMS	1443	24.0	584	250	834	609
99 4 OR MORE BEDROOMS	445	7.4	176	71	247	200
100 0-10 THROUGH 5-0	1100	100.0	0	334	334	766
101 1 OR 2 BEDROOMS	991	30.1	0	323	323	668
102 3 BEDROOMS	80	6.1	0	13	13	67
103 4 OR MORE BEDROOMS	20	1.8	0	0	0	20
104 REMARKS: 5 BEDROOM REQUIREMENTS	010 - 06	3			2	
	05 - 34	8			15	
	03 - 41	13			205	
	E9 - 27	60			93	
	E6 - 34	47			1158	
105 AUTHENTICATION	NAME AND TITLE RICHARD A. MCDANIEL, Colonel, IN Garrison Commander		SIGNATURE <i>Richard A. McDaniel</i>		DATE 20 May 86	
106 NAME AND LOCATION OF INSTALLATION: FORT POLK, LA						

APPENDIX C
DU Form 1378

ESTIMATION OF HOUSING REQUIREMENTS AND PROJECT COMPOSITION							DD FORM 1378 (A) 6-65	
DESCRIPTION OF LONG-RANGE HOUSING REQUIREMENTS	OFFICERS		ENLISTED PERSONNEL				DIVISION	TOTAL
	OPERATIONAL	STAFF	OPERATIONAL		STAFF			
			ENLISTED	STAFF	ENLISTED	STAFF		
1 TOTAL PERSONNEL BY MONTH	1545	0	8484	3853	0	0	0	14882
2 PERMANENT PARTY HOUSEHOLD BY MONTH	1545	0	8484	3853	0	0	0	14882
3 HOUSING REQUIREMENT BY MONTH	725	0	725	0	0	0	0	50.3
4 OTHER HOUSING REQUIREMENTS	1182	0	6134	0	0	0	0	8670
DERIVATION OF LONG-RANGE HOUSING DEFICIT								
	OPERATIONAL	STAFF	ENLISTED	STAFF	ENLISTED	STAFF	DEFICIT	TOTAL
5 UNITS AVAILABLE BY MONTH	1182	6134	0	0	0	0	1354	8670
6 MILITARY FAMILY SEPARATED BY MONTH	53	973	0	1026	16.0	179	179	1205
7 OFF-DUTY HOUSING REQUIREMENTS BY MONTH	1129	5161	0	8290	36.0	1175	1175	7455
8 OPERATIONAL AND STAFF	90	1016	4545	0	5661	17.4	2057	6711
9 OUTSIDE HOUSING REQUIREMENTS BY MONTH	466	4110	0	4904	69.1	375	375	3357
10 MILITARY CONTROLLED HOUSING BY MONTH	276	3096	0	3372	46.1	0	0	3372
11 MILITARY CONTROLLED HOUSING	226	2646	0	2872	37.3	0	0	2872
12 MILITARY CONTROLLED HOUSING CONTRACT	0	200	0	200	2.7	0	0	200
13 MILITARY CONTROLLED HOUSING	0	0	0	0	0.0	0	0	0
14 MILITARY LEASED HOUSING AND APPROVED	50	250	0	300	4.1	0	0	300
15 OTHER HOUSING	0	0	0	0	0.0	0	0	0
16 NET MILITARY CONTROLLED HOUSING BY MONTH	590	1022	0	1612	22.0	375	375	1737
17 OPERATIONAL AND STAFF	339	488	0	827	11.3	21	21	848
18 OUTSIDE HOUSING REQUIREMENTS BY MONTH	190	440	0	630	8.7	313	313	843
19 OUTSIDE HOUSING REQUIREMENTS BY MONTH	11	10	0	21	0.3	0	0	21
20 OUTSIDE HOUSING REQUIREMENTS BY MONTH	0	0	0	0	0.0	0	0	0
21 UNDER CONSTRUCTION OR PLANNED	50	84	0	134	1.8	41	41	175
22 NET HOUSING DEFICIT BY MONTH	263	1043	0	1306	17.8	870	870	2106
23 OPERATIONAL AND STAFF	150	527	0	677	9.3	692	692	1359
PROPOSED HOUSING INCREMENTS AND PROGRAMMING LEVELS								
FISCAL YEAR	24 NEW CONSTRUCTION							
	25 OTHER PLANS							
	26 MILITARY PROGRAMMING LEVEL - NO							
	27 MILITARY PROGRAMMING LEVEL - PERCENT							
	28 TOTAL PROGRAMMING LEVEL - NO							
FISCAL YEAR	29 NEW CONSTRUCTION							
	30 OTHER PLANS							
	31 MILITARY PROGRAMMING LEVEL - NO							
	32 MILITARY PROGRAMMING LEVEL - PERCENT							
	33 TOTAL PROGRAMMING LEVEL - NO							
FISCAL YEAR	34 NEW CONSTRUCTION							
	35 OTHER PLANS							
	36 MILITARY PROGRAMMING LEVEL - NO							
	37 MILITARY PROGRAMMING LEVEL - PERCENT							
	38 TOTAL PROGRAMMING LEVEL - NO							
FISCAL YEAR	39 NEW CONSTRUCTION							
	40 OTHER PLANS							
	41 MILITARY PROGRAMMING LEVEL - NO							
	42 MILITARY PROGRAMMING LEVEL - PERCENT							
	43 TOTAL PROGRAMMING LEVEL - NO							
FISCAL YEAR	44 NEW CONSTRUCTION							
	45 OTHER PLANS							
	46 MILITARY PROGRAMMING LEVEL - NO							
	47 MILITARY PROGRAMMING LEVEL - PERCENT							
	48 TOTAL PROGRAMMING LEVEL - NO							

APPENDIX C
DD Form 1378 (continued)

DETERMINATION OF HOUSING REQUIREMENTS AND PROJECT COMPOSITION								
CLASSIFICATION AND TYPE OF HOUSING UNIT	REQUIREMENTS			SUPPLY & INVENTORY			PERCENTAGE OF TOTAL	PERCENTAGE OF TOTAL
	EFFECTIVE	POTENTIAL	REQUIREMENT	MILITARY	CIVILIAN	TOTAL		
1. 10 FAMILIES	25	4	22	4	14	20	2	
2. 1 AND 2 BR PROHIB	10	2	9	0	5	5	4	
3. 3 BR PROHIB	8	1	7	1	2	3	4	
4. 4 OR MORE BR PROHIB	7	1	6	5	7	12	-6	
5. 0, 1 AND 2	212	34	191	60	104	164	27	
6. 1 AND 2 BR PROHIB	70	1	63	0	29	29	3	
7. 3 BR PROHIB	88	1	79	0	52	50	29	
8. 4 OR MORE BR PROHIB	56	9	49	60	25	85	-26	
9. 0, 1 AND 2 - 101	892	14	803	210	472	682	21	
10. 1 AND 2 BR PROHIB	615	3	527	119	318	437	29	
11. 3 BR PROHIB	200	3	200	60	73	133	67	
12. 4 OR MORE BR PROHIB	75	1	76	60	11	71	25	
13. OFFICERS TOTAL	1123	17	1015	276	590	866	150	
14. 1 AND 2 BR PROHIB	695	11	599	110	422	532	51	
15. 3 BR PROHIB	296	4	296	61	125	186	100	
16. 4 OR MORE BR PROHIB	137	2	131	105	43	148	-17	
17. 0, 1, 2	891	14	803	819	25	844	-109	
18. 1 AND 2 BR PROHIB	320	5	231	0	82	82	169	
19. 3 BR PROHIB	302	4	302	322	11	333	-31	
20. 4 OR MORE BR PROHIB	271	4	271	435	2	437	-227	
21. 0, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100	4268	67	3041	2270	927	3205	536	
22. 1 AND 2 BR PROHIB	3153	50	2726	1702	793	2575	151	
23. 3 BR PROHIB	843	13	843	370	108	420	615	
24. 4 OR MORE BR PROHIB	272	4	272	176	24	203	70	
25. ALL ELEMENTS EXCEPTED	5161	82	4645	3096	1022	4118	527	
26. 1 AND 2 BR PROHIB	3473	55	2957	1702	875	2557	300	
27. 3 BR PROHIB	1145	14	1145	642	119	761	384	
28. 4 OR MORE BR PROHIB	543	9	543	672	24	700	-157	
29. ALL ELEMENTS EXCEPTED	6290	10	5661	3372	1612	4984	577	
30. 1 AND 2 BR PROHIB	4162	65	3556	1892	1297	3189	367	
31. 3 BR PROHIB	1441	22	1431	703	244	947	404	
32. 4 OR MORE BR PROHIB	680	10	674	777	71	848	-174	
33. 0, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100	1175	10	1057	0	375	375	582	
34. 1 AND 2 BR PROHIB	1090	92	900	0	362	362	516	
35. 3 BR PROHIB	74	5	67	0	13	13	54	
36. 4 OR MORE BR PROHIB	11	9	10	0	0	0	10	
<div style="display: flex; justify-content: space-between;"> <div> <p>NAME AND TITLE OF COMMANDER RICHARD A. MCDANIEL, Col, IN Garrison Commander</p> </div> <div> <p>SIGNATURE <i>Richard A. McDaniel</i></p> </div> <div> <p>DATE 30 MAY 86</p> </div> </div>								
<p>NAME AND LOCATION OF INSTALLATION FORT POLK, LA 2AV U</p>								

APPENDIX C
DD Form 1379

NARRATIVE ON FAMILY HOUSING		REPORT CONTROL SYMBOL
<p>1. MISSION—The mission of the 5th Infantry Division and Fort Polk is to attain and maintain combat ready posture in support of national defense objectives and to support contingency plans as directed by higher headquarters. To command, operate and maintain the resources of Fort Polk and to accomplish all assigned missions and to provide support to assigned, attached, or tenant units or activities, as required.</p>		
<p>2. LOCATION Fort Polk is located in the Kisatchie National Forest area, approximately eight miles SE of Leesville, LA; 20 miles north of DeRidder, LA; and three miles east of US Highway 171. The population of Leesville now exceeds 20,000, with a parish (county) population of 54,134. DeRidder's population approximates 15,000 with a parish (county) population of 30,304. Larger communities are Alexandria, 53 miles to the east and Lake Charles, 70 miles to the south.</p>		
<p>3. COMMUNITY SUPPORT Local economy adequate housing remains in short supply. Assets that are available to military families consist primarily of older, rental units in less than suitable condition due to poor state of maintenance, antiquated components, and unacceptable environmental factors; rental mobile homes located, for the most part, in parks that are environmentally unacceptable due to lack of fire and police protection; poor sanitary sewage systems; poor water supply systems; unpaved streets; and general lack of owner maintenance and concern; homes for sale in the area, which are in the \$45,000 - \$85,000 price range, are at present in fair supply, but are beyond the means of those below field grade rank due to cash required for down payment and/or assumption, and high monthly mortgage payments.</p>		
<p>4. HOUSING ON POST On-post long range assets consist of 3073 units. Of the 3073 units, 2705 are NCO quarters; 301 CGO quarters (74 of the 301 are temporarily reallocated from NCO units); 60 FGO quarters; five SGO quarters, and two GO quarters. There are 198 trailer spaces on post for privately-owned trailers.</p>		
<p>5. JUSTIFICATION OF PROPOSED HOUSING Efforts by the installation to interest local realtors and builders in constructing housing under low risk HUD mortgage programs have been unsuccessful. Those with investment capital have stated they prefer other more profitable investments than rental real estate. Consequently, only 48 rental units are under construction in the area. Some landlords are purchasing and remodeling old government barracks buildings to be rented as apartments to lower grade NCOs. There are 12 apartments of this type now under construction/renovation. The actual current deficit of family housing units for eligible families is 1323. Of this number, 1323 are on the current housing waiting lists. The long range deficit, based on 100% strength as reflected in ASIP is 3600 for total military and 2444 for eligible personnel. The only apparent means for satisfying the family housing deficit at Fort Polk is by on-post military construction. Land is available, approved and identified in installation master plans. Deficit housing at this installation impacts on quality of life efforts for military families and is a determining factor in reenlistment of many best qualified soldiers. The impact extends to military readiness and may have a direct bearing on national security.</p>		
<p>6. NAME AND TITLE Typed or Stamped: VEVA J. CALHOUN C, Housing Division, DER</p>	<p>SIGNATURE <i>Veva J. Calhoun</i></p>	<p>DATE 6 Apr 84</p>
<p>7. NAME AND LOCATION OF INSTALLATION</p>		

DD FORM 1379

PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE.

APPENDIX IV TO ANNEX L

The following revisions were made to the economic analysis to reflect the effects of the pending tax law changes. In this example, the Federal Tax Revenue was deleted from the 801 alternative. The results are displayed on the following pages.

GENERAL DATA

LOCATION	FORT POLK LA
NUMBER OF UNITS	300
STARTING FY	1986
DISCOUNT RATE	9.6%
INFLATION RATE	OMB/OSD FEB 86

MCA DATA

LAND COST	\$326,700
CONSTRUCTION COST	\$19,302,000
M&R COST	\$879/UNIT (1st YEAR)
	\$1,504/UNIT (20th YEAR)
EQUIPMENT	
SERVICE	\$15/UNIT/YR
REPLACEMENT	\$1,026 (10th Yr)
IMPUTED INSURANCE	\$35/UNIT
REAL ESTATE TAX RATE	.035 x ASSESSED VALUE
RESIDUAL VALUE	
DETERIORATION FACTOR	.72197
INFLATION	1.6566
LAND APPRECIATION FACTOR	1.38756

LEASE DATA

SHELTER RENT	\$1,485,684
MAINTENANCE RENT	\$389,988
PROPOSED BUILDING COST	\$19,300,000
REAL ESTATE TAX RATE	.035 X ASSESSED VALUE
REAL ESTATE TAX INCREASE	80%
DEVELOPERS TAX BRACKET	46%
CAPITAL GAINS TAX RATE	28%

Net Present Value Uniform Annual Equivalent

MCA Construction	\$18,787,727	\$2,111,320
801 Lease	\$18,240,490	\$2,050,151

Sensitivity Data

MCA construction would become the least cost alternative if:

*the construction cost was reduced by 3.42% from \$19,302,000 to \$18,641,872.

*the Shelter rent was increased by 4.69% from \$1,485,684 to \$1,555,363

*the Maintenance rent was increased by 14.45% from \$389,988 to \$446,341.

*the maintenance and repair was reduced by 16.41% from \$326,400 to \$272,838.

*the real estate tax was increased by 21.88% from \$3,073 to \$3,745.

PROJECT/PROGRAM COSTS

YEAR	SHELTER RENT (01)	MAINTENANCE RENT (02)	ACCELERATED DEPRECIATION SCHEDULE (03)	PAYABLE R.E. TAX INCREASE (04)	TOTAL ANNUAL OUTLAYS	DISCOUNTED PRESENT VALUE	CUMULATIVE NET DISC P.V.
1986	\$0	\$0	\$0	\$0	\$0	\$0	\$0
1987	\$742,842	\$202,013	\$665,919	\$0	\$944,855	\$823,473	\$823,473
1988	\$1,485,684	\$416,956	\$577,130	\$0	\$2,568,559	\$2,042,505	\$2,865,979
1989	\$1,485,684	\$428,631	\$577,130	\$0	\$2,491,445	\$1,807,650	\$4,673,629
1990	\$1,485,684	\$438,918	\$488,341	\$3,073	\$2,416,016	\$1,599,382	\$6,273,012
1991	\$1,485,684	\$449,013	\$399,551	\$6,144	\$2,340,392	\$1,413,613	\$7,686,625
1992	\$1,485,684	\$459,340	\$310,762	\$9,216	\$2,265,002	\$1,248,245	\$8,934,871
1993	\$1,485,684	\$469,905	\$310,762	\$12,398	\$2,278,749	\$1,145,822	\$10,080,694
1994	\$1,485,684	\$480,713	\$221,973	\$15,689	\$2,204,059	\$1,011,191	\$11,091,886
1995	\$1,485,684	\$491,769	\$221,973	\$19,090	\$2,218,516	\$928,672	\$12,020,558
1996	\$1,485,684	\$503,080	\$221,973	\$22,490	\$2,233,227	\$852,947	\$12,873,505
1997	\$1,485,684	\$514,651	\$221,973	\$26,001	\$2,248,309	\$783,492	\$13,656,997
1998	\$1,485,684	\$526,488	\$221,973	\$29,511	\$2,263,656	\$719,744	\$14,376,742
1999	\$1,485,684	\$538,597	\$221,973	\$33,241	\$2,279,495	\$661,296	\$15,038,039
2000	\$1,485,684	\$550,985	\$133,184	\$36,971	\$2,206,824	\$584,137	\$15,622,176
2001	\$1,485,684	\$563,658	\$133,184	\$40,811	\$2,223,337	\$536,959	\$16,159,136
2002	\$1,485,684	\$576,622	\$133,184	\$44,651	\$2,240,141	\$493,629	\$16,652,765
2003	\$1,485,684	\$589,834	\$133,184	\$48,710	\$2,257,462	\$453,874	\$17,106,640
2004	\$1,485,684	\$603,451	\$133,184	\$52,769	\$2,275,088	\$417,352	\$17,523,993
2005	\$1,485,684	\$617,331	\$133,184	\$56,938	\$2,293,137	\$383,817	\$17,907,810
2006	\$1,485,684	\$631,529	\$0	\$61,217	\$2,178,430	\$332,680	\$18,240,490

YEAR	PROJECT/PROGRAM COSTS					PROJECT/PROGRAM COSTS					TOTAL ANNUAL OUTLAYS	DISCOUNTED PRESENT VALUE	CUMULATIVE NET DISC P.V.
	INITIAL CONSTRUCTION COSTS (01)	IMPLICIT LAND VALUE (02)	MAINTENANCE AND REPAIR (03)	EQUIPMENT COSTS (04)	IMPUTED INSURANCE (05)	RESIDUAL VALUE (06)	IMPUTED PROPERTY TAX (07)	ADMIN (08)					
1986	\$0	\$326,700	\$0	\$0	\$0	\$0	\$0	\$0	\$326,700	\$312,064	\$312,064	\$8,955,333	
1987	\$9,651,000	\$0	\$136,596	\$2,330	\$5,438	\$0	\$88,740	\$33,203	\$9,917,311	\$8,643,270	\$17,080,440	\$17,080,440	
1988	\$9,651,000	\$0	\$293,161	\$4,811	\$11,226	\$0	\$189,021	\$68,532	\$10,217,753	\$8,125,105	\$17,511,533	\$17,511,533	
1989	\$0	\$0	\$312,910	\$4,945	\$11,540	\$0	\$194,314	\$70,451	\$594,162	\$431,090	\$17,922,124	\$17,922,124	
1990	\$0	\$0	\$332,237	\$5,064	\$11,817	\$0	\$198,977	\$72,142	\$620,240	\$410,593	\$18,312,466	\$18,312,466	
1991	\$0	\$0	\$351,622	\$5,181	\$12,089	\$0	\$203,554	\$73,801	\$646,249	\$390,339	\$18,683,619	\$18,683,619	
1992	\$0	\$0	\$372,077	\$5,300	\$12,367	\$0	\$208,236	\$75,499	\$673,480	\$371,155	\$19,036,411	\$19,036,411	
1993	\$0	\$0	\$393,286	\$5,422	\$12,651	\$0	\$213,025	\$77,235	\$701,622	\$352,796	\$19,371,483	\$19,371,483	
1994	\$0	\$0	\$414,905	\$5,422	\$12,942	\$0	\$217,925	\$79,012	\$730,332	\$335,066	\$19,689,777	\$19,689,777	
1995	\$0	\$0	\$437,688	\$5,546	\$13,240	\$0	\$222,937	\$80,829	\$760,370	\$318,291	\$19,992,033	\$19,992,033	
1996	\$0	\$0	\$461,300	\$5,674	\$13,544	\$0	\$228,065	\$82,683	\$791,403	\$302,264	\$20,425,563	\$20,425,563	
1997	\$0	\$0	\$485,766	\$5,804	\$13,856	\$0	\$233,310	\$84,590	\$824,045	\$272,225	\$20,697,789	\$20,697,789	
1998	\$0	\$0	\$510,709	\$6,075	\$14,175	\$0	\$238,676	\$86,535	\$856,172	\$258,300	\$20,956,090	\$20,956,090	
1999	\$0	\$0	\$536,956	\$6,214	\$14,501	\$0	\$244,166	\$88,526	\$890,365	\$244,910	\$21,201,000	\$21,201,000	
2000	\$0	\$0	\$563,717	\$6,357	\$14,834	\$0	\$249,782	\$90,562	\$925,254	\$229,368	\$21,433,368	\$21,433,368	
2001	\$0	\$0	\$592,292	\$6,503	\$15,175	\$0	\$255,527	\$92,645	\$962,144	\$220,214	\$21,653,582	\$21,653,582	
2002	\$0	\$0	\$620,996	\$6,653	\$15,524	\$0	\$261,404	\$94,775	\$999,355	\$208,740	\$21,862,322	\$21,862,322	
2003	\$0	\$0	\$651,161	\$6,806	\$15,881	\$0	\$267,416	\$96,955	\$1,038,222	\$197,817	\$22,060,141	\$22,060,141	
2004	\$0	\$0	\$682,385	\$6,963	\$16,247	\$0	\$273,567	\$99,185	\$1,078,348	\$187,343	\$22,247,484	\$22,247,484	
2005	\$0	\$0	\$714,226	\$7,123	\$16,620	\$0	\$279,859	\$101,467	\$1,119,297	\$187,343	\$22,434,831	\$22,434,831	
2006	\$0	\$0	\$747,521	\$7,287	\$17,003	-\$23,836,448	\$286,295	\$103,800	-\$22,674,539	-\$3,462,757	\$18,784,722	\$18,784,722	

15, 50, 100

The following revisions were made to the economic analysis to reflect the effects of the pending tax law changes. In this example, the Federal Tax Revenue and Accelerated Depreciation were deleted from the 801 Alternative. The results are displayed on the following pages.

GENERAL DATA

LOCATION	FORT POLK LA
NUMBER OF UNITS	300
STARTING FY	1986
DISCOUNT RATE	9.6%
INFLATION RATE	OMB/OSD FEB 86

MCA DATA

LAND COST	\$326,700
CONSTRUCTION COST	\$19,302,000
M&R COST	\$879/UNIT (1st YEAR)
	\$1,504/UNIT (20th YEAR)
EQUIPMENT SERVICE	\$15/UNIT/YR
REPLACEMENT	\$1,026 (10th Yr)
IMPUTED INSURANCE	\$35/UNIT
REAL ESTATE TAX RATE	.08413 x 10% ASSESSED VALUE
RESIDUAL VALUE	
DETERIORATION FACTOR	.72197
INFLATION	1.6566
LAND APPRECIATION FACTOR	1.38756

LEASE DATA

SHELTER RENT	\$1,485,684
MAINTENANCE RENT	\$389,988
PROPOSED BUILDING COST	\$19,300,000
REAL ESTATE TAX RATE	.035 X ASSESSED VALUE
REAL ESTATE TAX INCREASE	80%
DEVELOPERS TAX BRACKET	46%
CAPITAL GAINS TAX RATE	28%

	<u>Net Present Value</u>	<u>Uniform Annual Equivalent</u>
MCA Construction	\$18,787,727	\$2,111,320
801 Lease	\$15,737,961	\$1,768,877

Sensitivity Data

MCA construction would become the least cost alternative if:

*the construction cost was reduced by 18.95% from \$19,302,000 to \$15,644,271.

*the Shelter rent was increased by 25.98% from \$1,485,684 to \$1,871,665.

*the Maintenance rent was increased by 79.69% from \$389,988 to \$700,769.

*the maintenance and repair was reduced by 90.63% from \$326,400 to \$30,584.

PROJECT/PROGRAM COSTS

YEAR	SHELTER RENT (01)	MAINTENANCE RENT (02)	PAYABLE R.E. TAX INCREASE (03)	TOTAL ANNUAL OUTLAYS	DISCOUNTED PRESENT VALUE	CUMULATIVE NET DISC P.V.
1986	\$0	\$0	\$0	\$0	\$0	\$0
1987	\$742,842	\$202,013	\$0	\$944,855	\$823,473	\$823,473
1988	\$1,485,684	\$416,956	\$0	\$1,902,640	\$1,512,770	\$2,336,443
1989	\$1,485,684	\$428,631	\$0	\$1,914,315	\$1,383,717	\$3,725,361
1990	\$1,485,684	\$438,918	\$3,073	\$1,927,675	\$1,276,104	\$5,001,466
1991	\$1,485,684	\$442,013	\$6,144	\$1,940,841	\$1,172,281	\$6,173,748
1992	\$1,485,684	\$459,340	\$9,216	\$1,954,240	\$1,076,984	\$7,250,732
1993	\$1,485,684	\$469,905	\$12,393	\$1,967,987	\$989,562	\$8,240,295
1994	\$1,485,684	\$480,713	\$15,639	\$1,982,086	\$909,353	\$9,149,649
1995	\$1,485,684	\$491,769	\$19,090	\$1,996,543	\$835,754	\$9,985,403
1996	\$1,485,684	\$503,080	\$22,490	\$2,011,254	\$768,168	\$10,753,571
1997	\$1,485,684	\$514,651	\$26,001	\$2,026,336	\$706,138	\$11,459,710
1998	\$1,485,684	\$526,488	\$29,511	\$2,041,683	\$649,167	\$12,108,877
1999	\$1,485,684	\$538,597	\$33,241	\$2,057,522	\$596,900	\$12,705,778
2000	\$1,485,684	\$550,985	\$36,971	\$2,073,640	\$548,883	\$13,254,662
2001	\$1,485,684	\$563,658	\$40,811	\$2,090,153	\$504,794	\$13,759,456
2002	\$1,485,684	\$576,622	\$44,651	\$2,106,957	\$464,281	\$14,223,738
2003	\$1,485,684	\$589,884	\$48,710	\$2,124,278	\$427,097	\$14,650,835
2004	\$1,485,684	\$603,451	\$52,769	\$2,141,904	\$392,920	\$15,043,756
2005	\$1,485,684	\$617,331	\$56,938	\$2,159,953	\$361,525	\$15,405,281
2006	\$1,485,684	\$631,529	\$61,217	\$2,178,430	\$332,630	\$15,737,961

YEAR	PROJECT/PROGRAM COSTS				PROJECT/PROGRAM COSTS				DISCOUNTED PRESENT VALUE	CUMULATIVE NET+DISC P.V.
	INITIAL CONSTRUCTION COSTS (01)	IMPLICIT LAND VALUE (02)	MAINTENANCE AND REPAIR (03)	EQUIPMENT COSTS (04)	IMPUTED INSURANCE (05)	RESIDUAL VALUE (06)	IMPUTED PROPERTY TAX (07)	ADMIN (08)		
1986	\$0	\$326,700	\$0	\$0	\$0	\$0	\$88,740	\$0	\$326,700	\$312,064
1987	\$9,651,000	\$0	\$136,596	\$2,330	\$5,438	\$0	\$189,021	\$33,203	\$9,917,311	\$8,955,334
1988	\$9,651,000	\$0	\$293,161	\$4,811	\$11,226	\$0	\$194,314	\$68,532	\$10,217,753	\$17,080,440
1989	\$0	\$0	\$312,910	\$4,945	\$11,540	\$0	\$198,977	\$70,451	\$594,162	\$17,511,530
1990	\$0	\$0	\$332,237	\$5,064	\$11,817	\$0	\$203,554	\$72,142	\$620,240	\$17,922,124
1991	\$0	\$0	\$351,622	\$5,181	\$12,089	\$0	\$208,236	\$73,801	\$646,249	\$18,312,463
1992	\$0	\$0	\$372,077	\$5,300	\$12,367	\$0	\$213,025	\$75,499	\$673,480	\$18,683,619
1993	\$0	\$0	\$393,286	\$5,422	\$12,651	\$0	\$217,925	\$77,235	\$701,622	\$19,036,415
1994	\$0	\$0	\$414,905	\$5,546	\$12,942	\$0	\$222,937	\$79,012	\$730,332	\$19,371,482
1995	\$0	\$0	\$437,688	\$5,674	\$13,240	\$0	\$228,065	\$80,829	\$760,370	\$19,689,773
1996	\$0	\$0	\$461,300	\$5,804	\$13,544	\$0	\$233,310	\$82,683	\$791,403	\$19,992,038
1997	\$0	\$0	\$485,766	\$6,075	\$13,856	\$0	\$238,676	\$84,590	\$1,244,045	\$20,425,563
1998	\$0	\$0	\$510,709	\$6,214	\$14,175	\$0	\$244,166	\$86,535	\$856,172	\$20,697,789
1999	\$0	\$0	\$536,956	\$6,357	\$14,501	\$0	\$249,782	\$88,526	\$890,365	\$20,956,090
2000	\$0	\$0	\$563,717	\$6,503	\$14,834	\$0	\$255,527	\$90,562	\$925,254	\$21,201,001
2001	\$0	\$0	\$592,292	\$6,653	\$15,175	\$0	\$261,404	\$92,645	\$962,144	\$21,433,369
2002	\$0	\$0	\$620,996	\$6,806	\$15,524	\$0	\$267,416	\$94,775	\$999,355	\$21,653,584
2003	\$0	\$0	\$651,161	\$6,963	\$15,881	\$0	\$273,567	\$96,955	\$1,038,222	\$21,862,324
2004	\$0	\$0	\$682,385	\$7,123	\$16,247	\$0	\$279,859	\$99,185	\$1,078,348	\$22,060,141
2005	\$0	\$0	\$714,226	\$7,287	\$16,620	\$0	\$286,295	\$101,467	\$1,119,297	\$22,247,485
2006	\$0	\$0	\$747,521	\$7,287	\$17,003	-\$23,836,448	\$286,295	\$103,800	-\$22,674,539	\$18,784,727

SECTION 801 BUILD TO LEASE MILITARY HOUSING PROGRAM
FORT POLK, LOUISIANA

AN ECONOMIC AND SENSITIVITY
ANALYSIS OF ALTERNATIVES FOR
PROVIDING FAMILY HOUSING

Prepared by
U.S. Army Corps of Engineers
Fort Worth District
819 Taylor Street
Fort Worth, Texas 76102-0300

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I. EXECUTIVE SUMMARY

A. The Decision Objective

The objective of this study was to determine if a proposed military lease housing program would be the most economical means of providing adequate housing for 300 company and enlisted grade military personnel at Fort Polk, Louisiana.

B. Background

Section 801 of the Military Construction Authorization Act of 1984 authorized the conduct of several pilot studies to determine the cost effectiveness of a lease program to obtain additional housing facilities. Fort Polk was one of the locations selected by FORSCOM to test this pilot program. If approved by Congress, these housing facilities would be available for beneficial occupancy in FY 87.

Major provisions set forth in this program are as follows:

- o Occupants would forfeit Basic Allowances for Quarters (BAQ) and Variable Housing Allowances (VHA) in return for assigned quarters.
- o The Government would pay all rent, utilities, and administrative costs.
- o The program cannot be applied to existing housing.
- o The new housing units may be required to be constructed to DOD specifications.
- o Upon termination of the lease agreement, the Government would have the right to acquire all right, title, and interest in the leased housing facilities.
- o The leasing arrangement may not exceed 20 years.
- o A validated deficit in military housing must exist in the general area.

4. The length of the analysis period is 22-years (FY 86 through FY 2007).

E. Alternative Courses of Action

Two potential housing alternatives were analyzed herein. They were:

1. Construction of new family housing through the MCA program. The 300 units would be built over a 2-year period from FY 86 through FY 87, with scheduled BOD of October 1987.

2. 801 Build to Lease Program. The Army would enter into a long-term agreement to lease 300 rental units to be constructed by a private developer with scheduled BOD of April 1987. Specific provisions of the agreement were previously described in paragraph B above. The rental units would be located on off-post lands provided by the proposer.

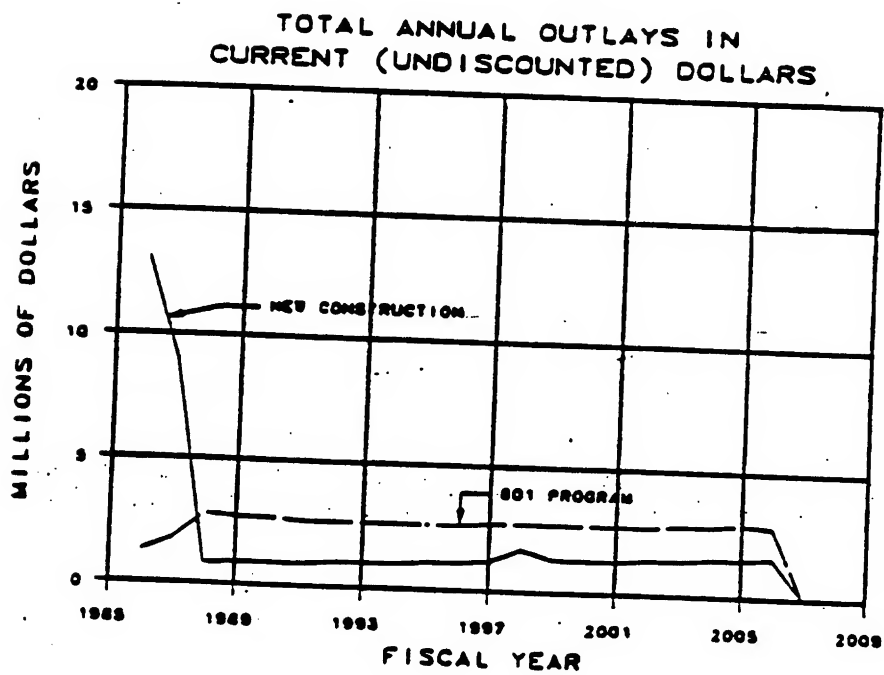
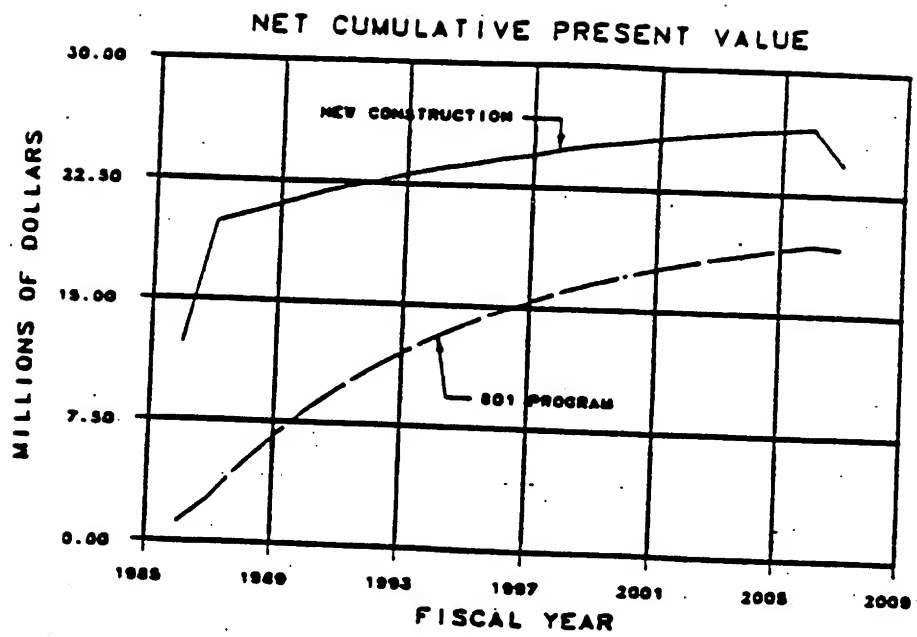
F. Economic Analysis Results

These analyses revealed that the least costly, viable alternative to meet Fort Polk's housing needs would be through the Section 801 Build to Lease Program. The present worth costs and uniform annual equivalent values for the alternatives investigated are shown below.

<u>Alternative</u>	<u>Present Worth Cost</u>	<u>Uniform Annual Equivalent Cost ^{1/}</u>
	(in \$1,000's)	
New Construction	\$24,288	\$3,177
801 Build to Lease Program	19,127	2,502

^{1/} Based on a 22-year period of analysis (FY 86-FY 2007) and 12 percent discount rate.

Graphs of the results of these analyses are presented on the following page. The advantages and disadvantages of each alternative can be summarized as follows.



<u>Element</u>	<u>Alternatives</u>	
	<u>MCA Construction</u>	<u>Build to Lease</u>
High initial Government outlay	disadvantage	advantage
Recurring O&M costs	approx equal	approx equal
Adds to available housing assets	equal	equal
Insures housing services obtainable for 20 years		
Availability of housing services after 20 years	equal	equal
Time required to implement alternative	advantage disadvantage	disadvantage slight advantage

G. Sensitivity Analysis Results

This economic analysis required certain assumptions and judgment to be applied to the development of the various expense elements. Sensitivity tests were performed to determine what changes would be required in each cost element to produce a different ranking of the housing alternatives. If slight changes in an estimated cost item would alter the ranking of alternatives, the analysis is said to be "sensitive" to that variable.

These analyses showed that for MCA construction to become the least costly option, new construction costs would have to be reduced by 29.8 percent. Alternatively, the 801 Build to Lease Program Costs would have to increase by 38.3 percent to alter the outcome. More details on the results of these sensitivity tests are presented in table II-4.

H. Nonmonetary Factors

Using the results of this analysis as the only selection criterion suggests that the least costly alternative is the best choice. The 801 Leasing Program and the MCA Construction alternatives are equivalent and comparable in that each would satisfy the objectives of providing adequate housing services.

I. Recommended Course of Action

It is felt that the requirement to provide needed Government housing services for company and enlisted grade personnel can best be accomplished through the 801 Build to Lease Program. As indicated earlier,

II. DETAILED SUMMARY

A. Background

Fort Polk is home post for the 5th Infantry Division and other support and tenant units. These units have been tasked to maintain a combat ready posture in support of national defense objectives.

The main cantonment area for Fort Polk is situated eight miles southeast of Leesville, LA, twenty miles north of DeRidder, LA, and three miles east of U.S. Highway 171. The current population of nearby Leesville exceeds 20,000 with a parish (Vernon) population of 58,220. DeRidder's population approximates 15,000 with its parish population (Beauregard) listed at 32,500. An area map which displays the locations of these communities with respect to Fort Polk is presented in figure II-1.

B. Housing Requirement

Pertinent housing statistics on Fort Polk contained in DD Form 1377, 1378, and 1379, dated 6 April 1984, are listed in appendix C. Summary information extracted from these forms is presented in table II-1.

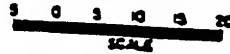
TABLE II-1
HOUSING REQUIREMENTS
O-3 through O-1 and E-9 through E-4 (Eligible)

Item	<u>Existing Assets</u>		Total
	<u>Accompanied</u>	<u>Enlisted Grade</u>	
	Company Grade		
Effective requirement	958	4,865	5,823
Military housing	(166)	(2,129)	(2,295)
Off-post housing	(453)	(605)	(1,058)
Surplus/deficit	<u>339</u>	<u>2,131</u>	<u>2,470</u>

SOURCE: DD Forms 1377, 1378, and 1379, dated 6 April 1984.

Provisions set forth in the Build to Lease Program, specify that an agreement may be entered into only when validated military housing defi-

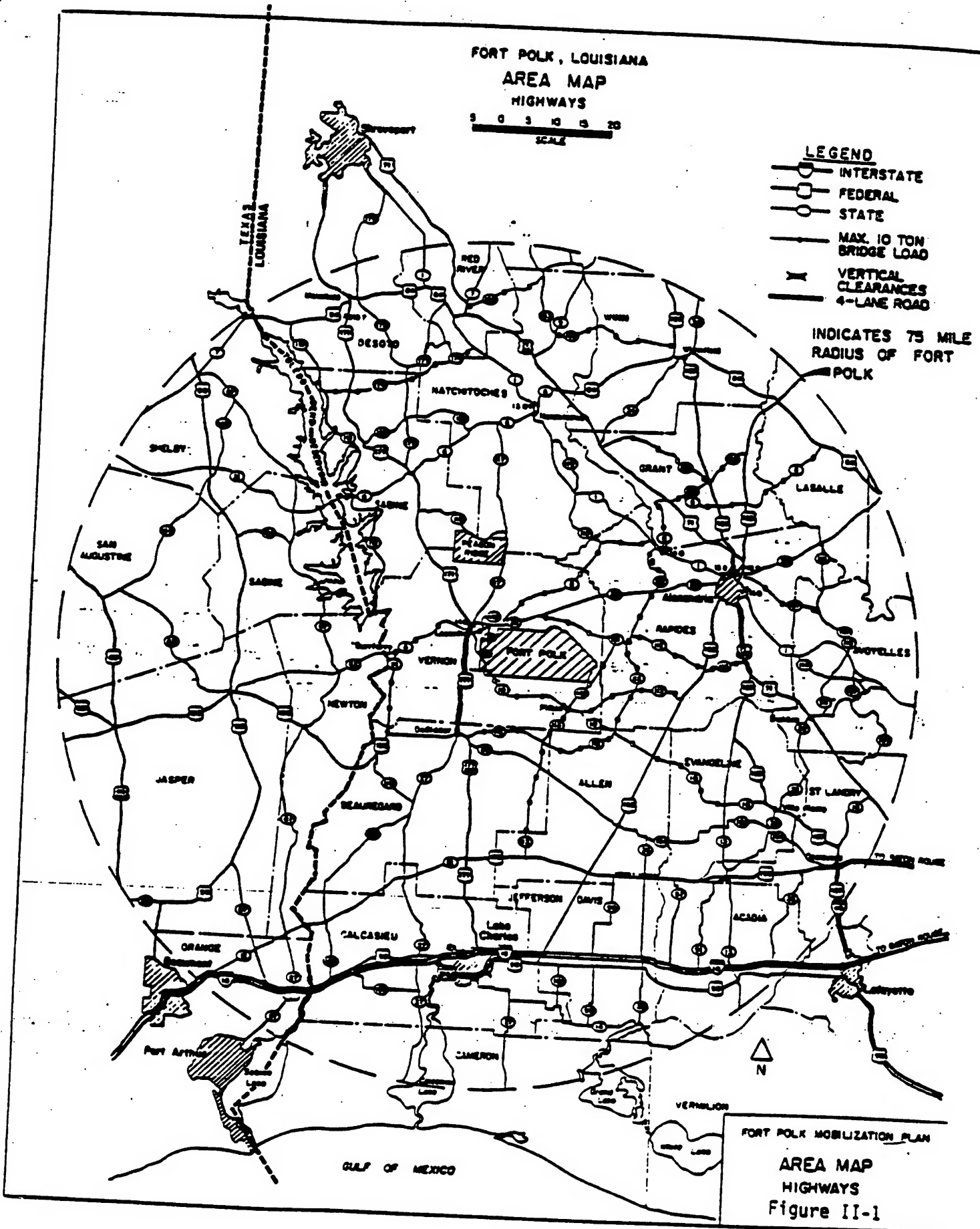
FORT POLK, LOUISIANA
AREA MAP
HIGHWAYS



LEGEND

- INTERSTATE
- FEDERAL
- STATE
- MAX. 10 TON BRIDGE LOAD
- X VERTICAL CLEARANCES
- 4-LANE ROAD

INDICATES 75 MILE
RADIUS OF FORT
POLK



cits exist. Application of this requirement substantiated the need for additional family housing facilities in the Fort Polk area.

C. Calculations for Each Alternative

1. A year-by-year display of the calculation results for the two alternatives is shown in table II-2. For each alternative, the table shows, in current 1986 dollars, the following items on an annual basis over the 22-year analysis period.

- a. The estimated amount for each expense element.
- b. The total of all expense elements ("TOTAL ANNUAL OUTLAYS").
- c. The present value of all expense elements ("DISCOUNTED PRESENT VALUE").
- d. The present value of all expense elements through indicated year ("CUMULATIVE DISCOUNTED PRESENT VALUE").
- f. The cumulative present value of costs through given year less present value of residual for given year ("CUMULATIVE NET DISCOUNTED P.V.").
- g. The annualized cost (equivalent uniform annual amount for the 22-year period of analysis).

The displays following table II-2 graphically depict cost data for the two alternatives throughout the period of analysis. Figure II-2 shows net cumulative present worth values of outlays. Figure II-3 shows total annual outlays in current 1986 dollars.

D. Sensitivity Analysis

1. Introduction. Sensitivity analyses were conducted primarily to determine the extent to which the study findings would be affected by altering the input data. Since varying levels of certainty and confidence apply to the input assumptions, changes were made in each of the key assumptions to determine their sensitivity on the ranking of alternatives.

TABLE II-2

SUMMARY OF COSTS FOR ECONOMIC ANALYSIS
REPORT BY YEAR

FORT POLK, LA
FAMILY HOUSING
FORT WORTH DISTRICT
CORPS OF ENGINEERS
(817-334-3246)

40 YR MCA WITH RESIDUAL

1. SUBMITTING ORGANIZATION DIRECTORATE OF FACILITIES ENGINEERING, FORT POLK, LA
2. DATE OF SUBMISSION 19 JUNE 1985
3. PROJECT TITLE ECONOMIC ANALYSIS OF FAMILY HOUSING
4. DESCRIPTION OF PROGRAM OBJECTIVE PROVIDE ADEQUATE HOUSING FOR 300 MILITARY PERSONNEL
5. ALTERNATIVE NEW CONSTRUCTION
6. ECONOMIC LIFE 40 YEARS
7. PERIOD OF ANALYSIS 22 YEARS
8. BASE YEAR 1986
9. STARTING YEAR 1986

TABLE II-2 (continued)

P R O J E C T / P R O G R A M C O S T S															PAGE 001	
IR	CONSTRUCTION		IMPACT AID		LAND ACQUISIT		MAINTENANCE &		EQUIPMENT		ALLOWANCES BA		IMPUTED INSUR		ADMINISTRATIO	
	MCA	(01)	MCA	(03)	MCA	(04)	MCA	(05)	MCA	(07)	MCA	(09)	MCA	(12)	MCA	(13)
16	\$11,478,000	\$0	\$344,826	\$0	\$326,700	\$0	\$376,036	\$0	\$0	\$0	\$1,260,400	\$0	\$0	\$0	\$0	\$0
17	\$7,652,008	\$0	\$357,585	\$0	\$0	\$0	\$389,950	\$0	\$0	\$0	\$1,313,336	\$0	\$0	\$11,378	\$0	\$69,463
18	\$0	\$0	\$369,743	\$0	\$0	\$0	\$408,088	\$0	\$5,056	\$0	\$0	\$0	\$0	\$11,799	\$0	\$72,034
19	\$0	\$0	\$382,314	\$0	\$0	\$0	\$421,963	\$0	\$5,228	\$0	\$0	\$0	\$0	\$12,200	\$0	\$74,483
20	\$0	\$0	\$395,313	\$0	\$0	\$0	\$436,310	\$0	\$5,406	\$0	\$0	\$0	\$0	\$12,615	\$0	\$77,013
21	\$0	\$0	\$408,754	\$0	\$0	\$0	\$451,145	\$0	\$5,598	\$0	\$0	\$0	\$0	\$13,844	\$0	\$79,634
22	\$0	\$0	\$422,651	\$0	\$0	\$0	\$477,907	\$0	\$5,780	\$0	\$0	\$0	\$0	\$13,988	\$0	\$82,341
23	\$0	\$0	\$437,021	\$0	\$0	\$0	\$494,156	\$0	\$5,977	\$0	\$0	\$0	\$0	\$13,946	\$0	\$85,141
24	\$0	\$0	\$451,880	\$0	\$0	\$0	\$510,957	\$0	\$6,180	\$0	\$0	\$0	\$0	\$14,420	\$0	\$88,036
25	\$0	\$0	\$467,244	\$0	\$0	\$0	\$528,330	\$0	\$6,390	\$0	\$0	\$0	\$0	\$14,911	\$0	\$91,029
26	\$0	\$0	\$483,130	\$0	\$0	\$0	\$559,198	\$0	\$6,607	\$0	\$0	\$0	\$0	\$15,418	\$0	\$94,124
27	\$0	\$0	\$499,557	\$0	\$0	\$0	\$578,211	\$0	\$503,324	\$0	\$0	\$0	\$0	\$15,942	\$0	\$97,324
28	\$0	\$0	\$516,542	\$0	\$0	\$0	\$597,870	\$0	\$7,064	\$0	\$0	\$0	\$0	\$16,484	\$0	\$100,633
29	\$0	\$0	\$534,104	\$0	\$0	\$0	\$618,198	\$0	\$7,304	\$0	\$0	\$0	\$0	\$17,844	\$0	\$104,055
30	\$0	\$0	\$552,264	\$0	\$0	\$0	\$654,143	\$0	\$7,553	\$0	\$0	\$0	\$0	\$17,624	\$0	\$107,593
31	\$0	\$0	\$571,041	\$0	\$0	\$0	\$676,384	\$0	\$7,810	\$0	\$0	\$0	\$0	\$18,223	\$0	\$111,251
32	\$0	\$0	\$590,456	\$0	\$0	\$0	\$699,381	\$0	\$8,075	\$0	\$0	\$0	\$0	\$18,843	\$0	\$115,033
33	\$0	\$0	\$610,532	\$0	\$0	\$0	\$723,160	\$0	\$8,350	\$0	\$0	\$0	\$0	\$19,483	\$0	\$118,944
34	\$0	\$0	\$631,290	\$0	\$0	\$0	\$766,396	\$0	\$8,634	\$0	\$0	\$0	\$0	\$20,146	\$0	\$122,989
35	\$0	\$0	\$652,754	\$0	\$0	\$0	\$792,454	\$0	\$8,927	\$0	\$0	\$0	\$0	\$20,831	\$0	\$127,170
36	\$0	\$0							\$9,231	\$0	\$0	\$0	\$0	\$21,539	\$0	\$131,494

TABLE II-2 (continued)

YEAR	P R O J E C T / P R O G R A M C O S T S			
	RESIDUAL VALU MCA (14)	SERVICES MCA (15)	TOTAL ANNUAL OUTLAYS (DISCOUNTED PRESENT VALUE
				CUMULATIVE NET DISC P.V.
1986	\$0	\$0	\$13,065,100	\$12,345,359
1987	\$0	\$0	\$8,965,336	\$19,909,151
1988	\$0	\$33,919	\$835,625	\$20,538,608
1989	\$0	\$35,174	\$871,600	\$21,124,820
1990	\$0	\$36,370	\$906,115	\$21,668,950
1991	\$0	\$37,606	\$936,923	\$22,171,298
1992	\$0	\$38,885	\$968,778	\$22,635,874
1993	\$0	\$40,207	\$1,001,717	\$23,063,237
1994	\$0	\$41,574	\$1,047,198	\$23,462,884
1995	\$0	\$42,988	\$1,082,803	\$23,831,843
1996	\$0	\$44,449	\$1,119,618	\$24,172,472
1997	\$0	\$45,960	\$1,157,685	\$24,486,945
1998	\$0	\$47,523	\$1,206,445	\$24,900,818
1999	\$0	\$49,139	\$1,251,091	\$25,171,741
2000	\$0	\$50,810	\$1,293,628	\$25,421,860
2001	\$0	\$52,537	\$1,337,611	\$25,652,775
2002	\$0	\$54,323	\$1,398,016	\$25,868,259
2003	\$0	\$56,170	\$1,445,549	\$26,067,197
2004	\$0	\$58,040	\$1,494,697	\$26,250,859
2005	\$0	\$60,055	\$1,545,517	\$26,420,419
2006	\$0	\$62,097	\$1,616,714	\$26,578,785
2007	-\$27,862,780	\$64,208	-\$26,191,017	\$24,288,103

UNIFORM ANNUAL EQUIVALENT = \$3,177,139 (12% DISCOUNT RATE, 22 YEARS)

TABLE II-2 (continued)

SUMMARY OF COSTS FOR ECONOMIC ANALYSIS
REPORT BY YEAR

FORT POLK, LA
FAMILY HOUSING
FORT WORTH DISTRICT
CORPS OF ENGINEERS
(817-334-3246)

SECTION 801 PROGRAM

1. SUBMITTING ORGANIZATION DIRECTORATE OF FACILITIES ENGINEERING, FORT POLK, LA
2. DATE OF SUBMISSION 18 JUNE 1985
3. PROJECT TITLE ECONOMIC ANALYSIS OF FAMILY HOUSING
4. DESCRIPTION OF PROGRAM OBJECTIVE PROVIDE ADEQUATE HOUSING FOR 300 MILITARY PERSONNEL
5. ALTERNATIVE SECTION 801
6. ECONOMIC LIFE 20 YEARS
7. PERIOD OF ANALYSIS 22 YEARS
8. BASE YEAR 1984
9. STARTING YEAR 1986

TABLE II-2 (continued)

PROJECT / PROGRAM COSTS							PAGE 001
SECTION 301 L (12)	MAINTENANCE & 801 (06)	FED TAX GAIN 801 (08)	REAL ESTATE Y 801 (10)	ALLOWANCES BA 801 (11)	ACC DEPR ADV 801 (16)	TOTAL ANNUAL OUTLAYS	DISCOUNTED PRESENT VALUE
\$0	\$0	\$0	\$0	\$1,260,400	\$0	\$1,250,400	\$1,150,966
\$1,003,150	\$158,905	\$0	\$0	\$656,668	\$0	\$1,818,723	\$1,534,403
\$2,006,400	\$330,522	\$0	\$0	\$0	\$427,875	\$2,769,797	\$2,082,659
\$2,005,400	\$342,751	\$0	\$0	\$0	\$370,825	\$2,719,976	\$1,829,372
\$2,005,400	\$354,405	\$0	\$0	\$0	\$313,775	\$2,679,078	\$1,608,808
\$2,005,400	\$366,454	\$0	\$4,499	\$0	\$256,725	\$2,638,795	\$1,414,837
\$2,006,400	\$378,914	\$0	\$9,215	\$0	\$199,675	\$2,598,921	\$1,244,159
\$2,005,400	\$391,797	\$0	\$13,932	\$0	\$199,675	\$2,616,741	\$1,118,473
\$2,005,400	\$405,118	\$0	\$18,869	\$0	\$142,625	\$2,578,168	\$983,916
\$2,006,400	\$418,892	\$0	\$24,025	\$0	\$142,625	\$2,597,208	\$884,984
\$2,005,400	\$433,135	\$0	\$29,291	\$0	\$142,625	\$2,616,936	\$796,166
\$2,006,400	\$447,861	\$0	\$34,776	\$0	\$142,625	\$2,637,257	\$716,383
\$2,005,400	\$463,089	\$0	\$40,371	\$0	\$142,625	\$2,658,409	\$644,757
\$2,006,400	\$478,834	\$0	\$45,295	\$0	\$142,625	\$2,680,188	\$580,392
\$2,006,400	\$495,114	\$0	\$52,329	\$0	\$85,575	\$2,645,781	\$511,555
\$2,005,400	\$511,948	\$0	\$58,692	\$0	\$85,575	\$2,669,088	\$460,769
\$2,005,400	\$529,354	\$0	\$65,165	\$0	\$85,575	\$2,693,186	\$415,115
\$2,006,400	\$547,352	\$0	\$71,857	\$0	\$85,575	\$2,718,095	\$374,066
\$2,005,400	\$565,062	\$0	\$79,768	\$0	\$85,575	\$2,743,836	\$337,151
\$2,006,400	\$585,205	\$0	\$85,899	\$0	\$85,575	\$2,772,430	\$303,945
\$2,005,400	\$605,102	\$0	\$93,250	\$0	\$85,575	\$2,712,431	\$265,698
\$2,005,400	\$625,675	-\$4,700,005	\$100,929	\$0	\$0	-\$1,959,097	-\$171,343
			\$108,827	\$0	\$0		

TABLE II-2 (continued)

PROJECT / PROGRAM COSTS

YEAR	CUMULATIVE NET DISC P.V.
1986	\$1,190,966
1987	\$2,725,369
1988	\$4,438,029
1989	\$6,417,401
1990	\$8,246,209
1991	\$9,561,047
1992	\$10,905,206
1993	\$12,323,690
1994	\$13,907,596
1995	\$15,892,580
1996	\$17,688,747
1997	\$19,955,110
1998	\$22,049,888
1999	\$24,530,280
2000	\$27,141,816
2001	\$29,582,605
2002	\$31,917,721
2003	\$34,391,789
2004	\$36,728,939
2005	\$39,132,884
2006	\$41,238,543
2007	\$43,127,239

UNIFORM ANNUAL EQUIVALENT = \$2,502,043 (12% DISCOUNT RATE, 22 YEARS)

2. Sensitivity Test Results. Comparison of the two alternatives revealed that the least costly option would be the 801 Build to Lease Program. A number of sensitivity tests were performed for the two options. As a result, two variables were identified to be somewhat sensitive to cost changes: MCA construction costs and MCA residual value.

Comparison of the alternatives revealed that new construction would become least cost alternative if MCA construction costs were decreased about 29.8 percent. Examination of other cost elements in regard to their sensitivity revealed that a 212.5 and 367.5 percent increase, respectively, in the residual value and the accelerated depreciation advantage for the new construction alternative would be necessary to alter the outcome of this report. The remaining cost elements are considered insensitive since they would have to decrease more than 100 percent or increase more than 500 percent to change the relative ranking of the two alternatives. The results of these analyses are summarized in table II-3.

TABLE II-3
CHANGES IN COST ELEMENTS TO RANK
NEW CONSTRUCTION AS LEAST COSTLY

<u>Cost Elements</u>	<u>Required Changes</u> (percent)
MCA Construction Cost	-29.8
801 Lease Cost	38.3
MCA Residual Value	212.5
Accelerated Depreciation Advantage	367.5

E. Summary of Alternatives

The costs for two housing alternatives were analyzed in this study: New Construction, and Build to Lease Program. The cost element categories included in calculating the net present values of each of the alternatives are summarized in table II-4.

2. Methodology/Assumptions.

- a. A discount rate of 12 percent was applied to determine present value of current dollar expenditures.
- b. Discount calculations for expense elements were performed using the mid-year convention.
- c. Price level changes due to inflation were included in this analysis. OMB/OSD inflation rate guidelines were utilized on all applicable cost items. Initial input cost element variables were based on various price levels. All cost elements were adjusted to reflect FY 86 price levels using the inflation rate guidelines presented in appendix B of this report. These guidelines are from Department of Army, Program Budget Committee, and are based on OMB economic assumptions and pricing guidance (DACS-PBC Memorandum 85-1 dated 4 January 1985).
- d. The most probable structure life for the new construction alternative was taken to be 40 years for the purpose of calculating a residual value at the end of the period of analysis. This residual value was computed using the building decay-obsolescence schedule contained in OMB circular A-104, attachment B.
- e. Residual values and resulting Federal tax flows were considered in the analysis. (See appendix A.)
- f. Expense elements which would be the same were considered wash costs and were not included in the comparative cost analysis.
- g. The length of the analysis period is 22 years (FY 86 through FY 2007).
- h. New housing would be constructed on land provided by the proposer.
- i. The 801 Program assumed sale of residential units at the end of the 20-year lease agreement to a non-Government entity.

TABLE II-5

SUMMARY OF CALCULATION RESULTS
 .. NET DISCOUNTED PRESENT VALUE ..

FORT POLK, LA
 FAMILY HOUSING
 FORT WORTH DISTRICT
 CORPS OF ENGINEERS
 (817-334-3246)

ITERATION	FY1986	FY1987	FY1988	FY1989	FY1990
NEW CONSTRUCTION					
SECTION 801	\$12,345,359 \$1,190,966	\$19,909,151 \$2,725,369	\$20,538,608 \$4,800,029	\$21,124,820 \$6,627,401	\$21,668,950 \$8,246,209
ITERATION	FY1991	FY1992	FY1993	FY1994	FY1995
NEW CONSTRUCTION					
SECTION 801	\$22,171,298 \$9,661,047	\$22,635,074 \$10,905,206	\$23,063,237 \$12,023,660	\$23,462,884 \$11,007,596	\$23,811,843 \$13,892,580
ITERATION	FY1996	FY1997	FY1998	FY1999	FY2000
NEW CONSTRUCTION					
SECTION 801	\$24,172,472 \$14,688,747	\$24,486,945 \$15,405,130	\$24,900,814 \$16,049,888	\$25,171,741 \$16,629,280	\$25,421,860 \$17,141,836
ITERATION	FY2001	FY2002	FY2003	FY2004	FY2005
NEW CONSTRUCTION					
SECTION 801	\$25,652,775 \$17,602,605	\$25,868,259 \$18,017,721	\$26,067,197 \$18,391,780	\$26,250,859 \$18,728,939	\$26,420,419 \$19,032,884
ITERATION	FY2006	FY2007			
NEW CONSTRUCTION					
SECTION 801	\$26,579,785 \$19,298,583	\$24,288,103 \$19,127,239			

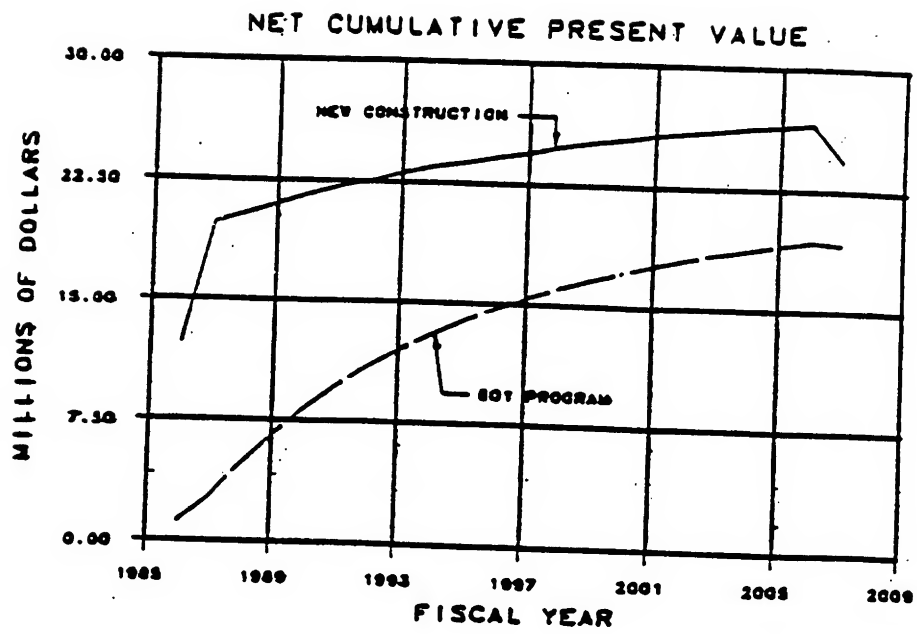


Figure II-2

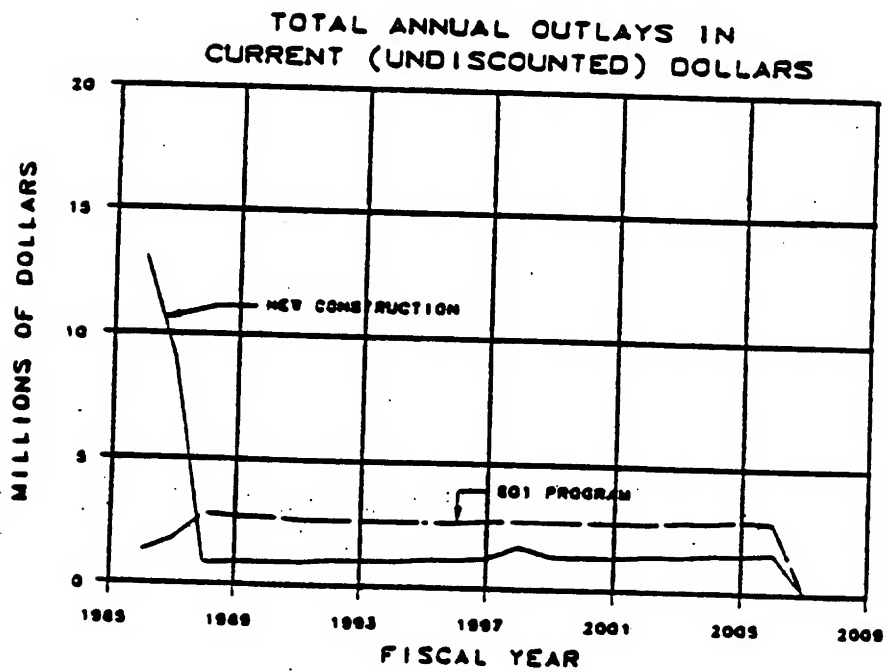


Figure II-3

TABLE II-4
SUMMARY OF ALTERNATIVES

<u>Cost Elements</u>	<u>Alternatives</u>	
	<u>MCA Construction</u>	<u>Build to Lease</u>
Construction Costs	x	
Payment of Allowances (BAQ,VHA)	x	
Services	x	x
Maintenance and Repair	x	
Equipment	x	x
Imputed Insurance	x	
801 Lease Costs	x	
Real Estate Tax Increases (80%)		x
Federal Tax Gain		x
Utilities		x
Land Acquisition	x	x
Administration	x	
Residual Value	x	
Impact Aid-Dependent Children	x	
Accelerated Depreciation Advantage		x

Table II-5 summarizes the calculation results for cumulative net discounted present value for each of the 22 years of the period of analysis.

F. Methodology and Assumptions

1. General. Investigations were made to determine the expense elements which should be addressed in the two alternatives investigated. The development of expense element estimates is detailed in appendix A of this report. Calculations were performed to estimate the present value of the stream of future expenditures required for the implementation of each alternative. Computer outputs were then generated which display the projected costs per year with estimated inflationary effects (current 1986 dollar analysis); present value per year, cumulative present value per year, and cumulative present value net of residual (terminal, or salvage value) for each year.

APPENDIX A

DETAILED COST ELEMENT BUILD-UP

I. Introduction. This section of the report describes the procedures followed in the derivation of cost items included in these economic analyses. The resultant figures were used in calculating present value cost estimates for the various alternatives investigated.

II. Cost Element Items. A schedule of the major cost elements for each of the alternatives was previously shown in year-by-year detail in table II-2. The schedule reflects FY 86 price levels and spans the 22-year period of analysis (FY 1986 through FY 2007).

III. Cost Element Details

A. Construction Cost: MCA (Variable 1)

New construction costs were based on estimates developed by Fort Worth District, U.S. Army Corps of Engineers, using the Tri-Service Cost Model. Under this alternative, it was assumed that 300 new 2- and 3-bedroom housing units would be built off-post. Table A-1 summarizes the cost estimate for the MCA alternative.

<u>Fiscal Year</u>	<u>% Completion</u>	<u>Annual Cost</u>
86	60	\$11,478,000
87	40	\$ 7,652,000

B. 801 Build to Lease Program (Variable 2)

This program, which was authorized under the Military Construction Authorization Act of 1984, was designed to test whether family housing could be provided more economically than by conventional means. The proposed units would be constructed to meet the space requirements for accompanied company and enlisted grade personnel. Under this plan, 300 dwelling units would be constructed, operated, and maintained by a private contractor. The units would be built on off-post lands provided by the proposer. The leasing agreement between the Government and the contractor may not exceed 20 years. Under this program, the individual service person would forfeit his/her BAQ and VHA and be assigned to the housing unit.

Annual lease costs of \$2,006,400 were applied which reflect the actual bid price contained in the selected proposal. This annual amount was held constant throughout the lease period given that it is not subject to inflationary adjustments. Estimated annual lease expenditures over the analysis period are as follows.

<u>Fiscal Year</u>	<u>Number of Units</u>	<u>Period of Operation (Months)</u>	<u>Monthly Rental ^{1/} Cost/Unit</u>	<u>Annual Expenditures ^{2/}</u>
86	---	---	---	---
87	300	6	\$557.32	\$1,003,150
88-2007	300	12	557.32	2,006,400

^{1/} Weighted average monthly rental rate based on project composition stated in selected proposal.

^{2/} Annual expenditures include the operation of 300 dwelling units for 6 months in FY 87.

E. Utilities: MCA Construction and 801 Lease (Wash)

Utility expenses for both alternatives will be equal and are considered wash costs.

F. Maintenance and Repair: MCA Construction (Variable 5)

Estimates for maintenance and repair (M&R) costs on the MCA alternative were based on the assumption that these costs would be similar to the current installation expenses on units of comparable size and age. Further adjustments in these costs were made to reflect anticipated higher maintenance costs due to increased physical deterioration in future years. Historical M&R data (1982-1984) were obtained for units in the family housing inventory at Fort Polk. Examination of this data revealed that average maintenance costs increased with structure age. Varying levels of estimated annual M&R costs were projected based upon a simple regression analysis of the general form:

$$y = 7.12571x - 13,009.44569$$

where y = the projected M&R costs/DU/year

x = projected time period (fiscal year)

$r = 0.884$ (correlation coefficient)

Using this trendline, M&R costs were adjusted every fourth year during the analysis beginning in FY 90 to reflect the expected increased costs. Resultant annual M&R expenditures are as follows.

once over the life of the project. Periodic service calls were programmed such that every two dwelling units received one call per year at a cost of \$30.00 per call. The estimated average annual cost for equipment under the MCA option is as follows.

Item	Cost/Unit
Refrigerator	
Range/Oven	
Total	
Adjustment Factor	
Add: The cost of 150 service calls (300 DU's/2) per year.	
150 service calls x \$30/call = \$4,500 (FY86)	
	\$ 380.95
	575.00
	\$ 955.95 (FY 83)
	x1.156
	\$1,105.08 (FY 86)

A schedule of the annual expenditures for equipment is presented below.

Fiscal Year	Item	Number of Units	Annual Cost/Unit	Annual Expenditures 1/
88	Initial issue	300	\$ 0.00 2/	\$ 0 2/
89-97	Service calls	150	30.00	4,500
98	Replacement	300	1,105.08	331,500
99-2007	Service calls	150	30.00	4,500

1/ Does not reflect projected annual inflationary price increases.
2/ Subject equipment included in initial construction costs.

I. Federal Tax Revenue: 801 (Variable 8)

Estimates of the Federal tax revenue received under the 801 alternative were derived based upon the following assumptions.

- Developer will sell all dwelling units (real property) constructed under the 801 Program to party(s) other than the Government upon completion of the 20-year lease term and pay Federal tax due.
- Revenues received would be taxed as capital gains and would reduce 801 Program costs by generating tax revenue.
- Assumed capital gains rate of 20 percent.

allowances would be paid under the 801 Program based on the 18-month construction period as set forth in the subject RFP. Scheduled annual expenditures are as follows:

Fiscal Year	Number of Units	Period of Operation (Months)	Monthly Cost/Unit	Annual Expenditures 1/
-------------	-----------------	------------------------------	-------------------	------------------------

MCA Alternative

86,87	300	12	\$350.10	\$1,260,400
88-2007	-	-	-	-

Section 801

86	300	12	\$350.10	\$1,260,400
87	300	6	350.10	630,200
88-2007	-	-	-	-

1/ Does not reflect anticipated inflationary price increases.

K. Real Estate Taxes: 801 Build to Lease (Variable 10)

The RFP specifies that the Government will pay 80 percent of all increases in general real estate taxes levied after the second year of operation. General real estate taxes are those which are assigned on an ad valorem basis against all taxable real property in the taxing authority's jurisdiction. Tax rates for this cost element were assigned based upon the geographical location (i.e., taxing authority's jurisdiction) of the proposed housing units. Effective tax rates and methodologies shown below were applied to the 801 Build to Lease construction cost estimate for the purpose of calculating the applicable real estate tax expenses to be paid by the Government.

<u>Fiscal Year</u>	<u>Inflation Factor</u>	<u>Total Local Taxes Due</u>	<u>Increment of Increase From FY 89</u>	<u>Incremental Taxes Payable by Federal Government (80% of Total)</u>
84	1.000	\$137,132	-	-
89	1.201	164,696	-	-
90	1.242	170,318	\$ 5,622	\$ 4,498
91	1.285	176,215	11,519	9,215
92	1.328	182,111	17,415	13,932
93	1.373	188,282	23,586	18,869
94	1.420	194,727	30,031	24,025
95	1.468	201,310	36,614	29,291
96	1.518	208,166	43,470	34,776
97	1.569	215,160	50,464	40,371
98	1.623	222,565	57,869	46,295
99	1.678	230,107	65,411	52,329
2000	1.736	238,061	73,365	58,692
01	1.795	246,152	81,456	65,165
02	1.856	254,517	89,821	71,857
03	1.919	263,156	98,460	78,768
04	1.984	272,070	107,374	85,899
05	2.051	281,258	116,562	93,250
06	2.121	290,857	126,161	100,929
07	2.193	300,730	136,034	108,827

L. Imputed Insurance: MCA Construction (Variable 12)

Insurance costs related to the MCA alternative reflect only those fees necessary to cover the liability claims. Property damage due to other types of casualties was excluded since the cost of repairs and/or replacement is handled under required maintenance and repair and thus is reflected in the annual M&R budget accounts. Costs included in this element represent localized commercial liability rates. The rate applied for the MCA alternative was \$35.00/dwelling unit/year. Annual expenditures for this cost element are as follows.

<u>Fiscal Year</u>	<u>Number of Units</u>	<u>Period of Operation (Months)</u>	<u>Annual Cost/Unit</u>	<u>Annual Expenditures</u> ^{1/}
86,87 88-2007	300	12	\$35.00	\$10,500

^{1/} Does not reflect anticipated inflationary price increases.

2007). Under the MCA option, residual value of the structures was considered a reduction in the cost of this alternative to the Government. This estimated residual value was computed and inserted during the final year of the analysis (FY 2007). The procedure used to derive this value is shown below.

$$\begin{array}{rcl}
 (\$19,130,000) \times & (2.0514) & \times \quad (0.71) \\
 \text{(Estimated} & \text{(Compound In-} & \text{(Building} \\
 \text{MCA Cost)} & \text{Inflation Factor}\underline{1/}) & \text{Decay Factor}\underline{2/}) \\
 & & = \$27,862,700 \text{ (FY 2007)} \\
 & & \text{Residual Value}
 \end{array}$$

1/ See footnote 2, item I.

2/ See footnote 3, item I.

0. Services: MCA Construction (Variable 15)

Cost elements in the services account include refuse collection/disposal, entomological, and custodial services. Estimates of prior year service expenses (1982-1984) were obtained from AMS housing management accounts furnished by the Budget Office at Fort Polk. An estimate of annual cost breakdown of each of these service items is listed below.

<u>Item</u>	<u>Annual Cost^{1/}</u>	<u>Annual Cost/Unit</u>
Refuse collection/disposal	\$147,619.42	\$ 51.38
Entomology services	113,609.41	39.54
Custodial	9,682.38	3.37
	Total	\$ 94.29 (FY 84)
	Adjustment Factor	x1.105
		\$104.19 (FY 86)

1/ Annual cost to service 2,873 units.

The above cost/unit was then applied to the following schedule to derive the annual expenditures for services. Under the 801 alternative, the cost to provide custodial and entomological services is included in the shelter rent fee.

APPENDIX B

INFLATION AND RESIDUAL FACTORS

I. Inflation. Where appropriate, adjustments were made to place all the cost data at current dollar FY 86 price levels. Inflation rate guidelines shown in table B-1 were applied to adjust the cost elements to reflect FY 86 and all future price levels.

TABLE B-1

INFLATION RATE GUIDELINES

<u>Fiscal Year</u>	<u>Inflation Rate</u> (percent)
1986-87	4.2
1987-88	4.0
1988-89	3.7
1989-2007	3.4

SOURCE: Department of Army, Program Budget Committee, based on OMB economic assumptions and pricing guidance (DACS-PBC Memorandum 83-146 dated 4 April 1983). Same escalation rate applies for all cost element items.

II. Residual Factors. Calculation of a residual value of a particular item can sometimes be a critical element in an economic analysis. In the case of a structure, the residual value would be its net disposal value at the end of the project life. The residual value of a structure is generally thought to decline over time, reflecting its use, consumption, and/or physical deterioration.

For purposes of this economic analysis, Building Decay Obsolescence Factors were used to calculate residual value for the new construction alternative. Residual factors applicable to this method are listed in table B-2. Initial construction cost was assumed to approximate new market value. Multiplying this amount by a selected residual factor yields the estimated residual value (in FY 86 prices) for the selected year.

APPENDIX C DD Form 1377

TABULATION OF FAMILY HOUSING SURVEY

DATE OF SURVEY		OFFICERS		ENLISTED		CIVILIANS		TOTAL		TOTAL	
13 SEP 70		1274		2768		2696		11740		16613	
2. TOTAL PERSONNEL STRENGTH		1274		2768		2696		11740		16613	
3. IN REMOVED PARTY HOUSING STRENGTH AND KEY CIVILIANS		1274		2768		2696		11740		16613	
4. NUMBER OF FAMILIES		1008		5728		0		6736		13047	
5. HOUSING REQUIREMENT FACTOR		70.0		77.7		0		74.5		54.5	
6. NOT LIVING WITH FAMILY (TOTAL: 7-10)		77		1045		0		2022		5045	
7. INVOLUNTARILY SEPARATED FAMILIES		34		657		0		691		347	
8. IMPROPER MILITARY QUARTERS		14		574		0		547		396	
9. IMPROPER PRIVATE HOUSING		3		126		0		134		174	
10. VOLUNTARILY SEPARATED FAMILIES		57		1345		0		1401		1510	
11. LIVING WITH FAMILY IN AREA (TOTAL: 12-10)		731		3783		6		4714		5696	
12. SUITABLE HOUSES (SUBTOTAL: 13-10)		861		3400		0		4060		4412	
13. IN MILITARY CONTROLLED HOUSING		331		2567		0		2868		2868	
14. IMPROPER RENTING OFF POST		3		221		0		223		223	
15. IMPROPER OWNERS OFF POST		0		270		0		270		270	
16. IN PRIVATE HOUSING		560		632		0		1192		1344	
17. IMPROPER MILITARY QUARTERS		13		143		0		277		163	
18. IMPROPER RENTING OFF POST		94		150		0		344		147	
19. UNSUITABLE HOUSES (SUBTOTAL: 20-23)		70		534		0		654		632	
20. IN MILITARY CONTROLLED HOUSING		3		6		0		9		3	
21. IMPROPER RENTING OFF POST		3		0		0		3		0	
22. IMPROPER OWNERS OFF POST		3		0		0		3		0	
23. IN PRIVATE HOUSING (SUBTOTAL: 24-26)		70		584		0		654		632	
24. IMPROPER MILITARY QUARTERS		34		344		0		335		493	
25. IMPROPER RENTING OFF POST		24		163		0		184		116	
26. EXCESS DISTANCE		7		67		0		70		22	
27. SUBSTANDARD		63		524		0		584		610	
28. EXCESS COST ONLY (OWN NAME)		0		0		0		0		0	
29. LESS THAN 50		0		0		0		0		0	
30. 50 TO 60		0		0		0		0		0	
31. 60 TO 65		0		0		0		0		0	
32. 65 TO 70		0		0		0		0		0	
33. 70 AND MORE		0		0		0		0		0	
34. IN OWNERS OCCUPIED HOUSES (TOTAL: 35-38)		316		213		0		549		553	
35. SUITABLE IN ALL RESPECTS		343		174		0		474		494	
36. UNSUITABLE (SUBTOTAL: 37-38)		13		42		0		55		50	
37. EXCESS DISTANCE		7		34		0		38		42	
38. SUBSTANDARD		0		8		0		17		17	
39. EXCESS COST ONLY		0		0		0		0		0	
40. IN OWNERS OCCUPIED TRAILERS (TOTAL: 41-42)		42		182		0		224		250	
41. SUITABLE IN ALL RESPECTS (ON POST)		34		161		0		197		215	
42. UNSUITABLE (SUBTOTAL: 43-44) (ON POST)		6		21		0		27		34	
43. EXCESS DISTANCE		2		7		0		6		6	
44. SUBSTANDARD (ON POST)		4		17		0		21		25	
45. EXCESS COST ONLY (ON POST)		0		0		0		0		0	
46. IN RENTED HOUSING OFF POST (TOTAL: 47-50)		252		871		0		1073		2027	
47. SUITABLE IN ALL RESPECTS		201		300		0		501		334	
48. UNSUITABLE (SUBTOTAL: 49-50)		51		571		0		572		1196	
49. EXCESS DISTANCE		1		25		0		26		44	
50. SUBSTANDARD		50		496		0		546		1152	
51. EXCESS COST ONLY		0		0		0		0		0	
52. IN MILITARY CONTROLLED HOUSING (TOTAL: 53-57)		301		2567		0		2868		2868	
53. ADEQUATE AS PUBLIC QUARTERS (VACANT)		5		301		0		2268		2268	
54. MILITARY OWNED (VACANT)		5		301		0		2268		2268	
55. MILITARY LEASED (VACANT)		0		0		0		0		0	
56. MILITARY SPONSORED (VACANT)		0		0		0		0		0	
57. INADEQUATE AS PUBLIC QUARTERS (VACANT)		0		0		0		0		0	
58. VACANT HOUSING (TOTAL: 59-61)		0		12		0		12		12	
59. PRIVATE RENTAL HOUSING		0		7		0		7		7	
60. FHO AND VFO RENTAL HOUSING		0		0		0		0		0	
61. MILITARY HOUSING ADEQUATE AS PUBLIC QUARTERS		0		5		0		5		5	
62. NUMBER OF UNSUITABLE UNITS INSPECTED		12		62		0		54		100	
63. NUMBER OF INSPECTED UNITS RECLASSIFIED		5		2		0		7		8	
64. ADJUSTMENT FACTORS		2		107		3		3002		4657	
65. NAME AND LOCATION OF INSTALLATION		FORT POLK		LA		000		3002		4657	

APPENDIX C DD Form 1377 (continued)

TABULATION OF FAMILY HOUSING SURVEY						
	EFFECTIVE REQUIREMENTS		SUITABLE HOUSING			DEFICIT b-m
	NUMBER a	PERCENT b	MIL. CONTROL c	OFF POST d	TOTAL S + D e	
06. 0 - 10 THROUGH 0-0	19	0.4	7	11	18	1
07. 1 OR 2 BEDROOMS	0	0.1	0	3	3	3
08. 3 BEDROOMS	4	0.1	1	2	3	1
09. 4 OR MORE BEDROOMS	7	0.2	6	6	12	5
10. 0 - 5 AND 0-0	173	3.2	60	99	159	14
11. 1 OR 2 BEDROOMS	51	0.9	0	29	29	22
12. 3 BEDROOMS	82	1.5	0	47	47	35
13. 4 OR MORE BEDROOMS	40	0.7	60	23	83	43
14. 0 - 3 THROUGH 0-1 AND 0-4 THROUGH 0-1	763	14.1	234	450	684	79
15. 1 OR 2 BEDROOMS	341	10.0	100	361	461	80
16. 3 BEDROOMS	163	3.0	66	77	143	20
17. 4 OR MORE BEDROOMS	59	1.1	68	12	80	21
18. ALL OFFICER GRADES (TOTAL: 00 + 10 + 10)	953	17.7	301	560	861	94
19. 1 OR 2 BEDROOMS	598	11.1	100	393	493	103
20. 3 BEDROOMS	249	4.6	67	126	193	56
21. 4 OR MORE BEDROOMS	106	2.0	134	41	175	67
22. 0 - 5 THROUGH 0-1	726	13.4	778	109	887	163
23. 1 OR 2 BEDROOMS	272	5.0	0	45	45	227
24. 3 BEDROOMS	278	5.2	310	45	353	77
25. 4 OR MORE BEDROOMS	174	3.2	468	19	487	313
26. 0 - 5 THROUGH 0-4 (Repeat)	3710	68.9	1794	530	2324	1392
27. 1 OR 2 BEDROOMS	2839	52.6	1412	453	1867	972
28. 3 BEDROOMS	764	14.2	207	60	267	497
29. 4 OR MORE BEDROOMS	173	2.1	175	15	190	77
30. ALL ELIGIBLE ENLISTED (TOTAL: 02 + 00)	4440	82.3	2372	639	3211	1229
31. 1 OR 2 BEDROOMS	3111	57.7	1412	500	1912	1199
32. 3 BEDROOMS	1042	19.3	517	103	622	420
33. 4 OR MORE BEDROOMS	287	5.3	643	34	677	390
34. ALL ELIGIBLE MILITARY (TOTAL: 70 + 00)	5393	100.0	2873	1199	4072	1323
35. 1 OR 2 BEDROOMS	3709	68.7	1512	893	2405	1304
36. 3 BEDROOMS	1291	23.9	584	231	815	476
37. 4 OR MORE BEDROOMS	393	7.3	777	75	852	457
38. KEY CIVILIANS EQUIVALENT	0	0.0	0	0	0	0
39. 1 OR 2 BEDROOMS	0	0.0	0	0	0	0
40. 3 BEDROOMS	0	0.0	0	0	0	0
41. 4 OR MORE BEDROOMS	0	0.0	0	0	0	0
42. KEY CIVILIANS EQUIVALENT	0	0.0	0	0	0	0
43. 1 OR 2 BEDROOMS	0	0.0	0	0	0	0
44. 3 BEDROOMS	0	0.0	0	0	0	0
45. 4 OR MORE BEDROOMS	0	0.0	0	0	0	0
46. ALL ELIGIBLE CATEGORIES (From 00 + 00 + 1027)	5393	100.0	2873	1199	4072	1323
47. 1 OR 2 BEDROOMS	3709	68.7	1512	893	2405	1304
48. 3 BEDROOMS	1291	23.9	584	231	815	476
49. 4 OR MORE BEDROOMS	393	7.3	777	75	852	457
50. 0-4 (Repeating) THROUGH 0-1	1201	100.0	0	352	352	849
51. 1 OR 2 BEDROOMS	1082	90.1	0	339	339	743
52. 3 BEDROOMS	97	8.1	0	13	13	84
53. 4 OR MORE BEDROOMS	22	1.8	0	0	0	22

114. REMARKS: 5 BEDROOM REQUIREMENTS		
010 - 06	3	2
05 - 04	3	17
03 - 41	14	218
E9 - E7	49	76
E6 - E4	41	1022

115. AUTHENTICATION	NAME AND TITLE VEVA J. CALHOUN Chief, Hsg Div, DEH	SIGNATURE <i>Veve J. Calhoun</i>	DATE 6 April 84
116. NAME AND LOCATION OF INSTALLATION: FORT POLK, LA			

DD FORM 1377

APPENDIX C DD Form 1378

DETERMINATION OF RESERVE REQUIREMENTS AND PROJECT COMPOSITION

DD I&L (A) 663

CATEGORIES OF RESERVE REQUIREMENTS	OFF-BOARD		ON-BOARD				COMBINED	TOTAL
	OFFICIAL	STUDENTS	OFFICIAL		STUDENTS			
			ELIGIBLE	OTHER	ELIGIBLE	OTHER		
1. TOTAL, ALL-BOARD, STUDENTS	1512	0	9558	5996	1373	0	3730	22271
2. RESERVE, OFF-BOARD, STUDENTS	1512	0	9558	5996	0	0	0	17166
3. RESERVE, ON-BOARD, STUDENTS	85.6	0	73.2	29.5	0	0	0	59.1
4. OFF-BOARD, STUDENTS	1380	0	6996	1769	0	0	0	10143
DETERMINATION OF LONG-RANGE RESERVE DEFICIT								
	OFFICIAL	STUDENTS	OFF-BOARD	ON-BOARD		OTHER	TOTAL	
5. OFF-BOARD, RESERVE REQUIREMENTS	1380	6996	0	8376	1769	1769	10143	
6. RESERVE, OFF-BOARD, STUDENTS	72	1573	0	1643	19.6	251	1906	
7. EFFECTIVE RESERVE REQUIREMENTS IN BOARD	1308	5423	0	6731	80.4	1508	8239	
8. PROJECTING RATE - 90 %	1176	4881	0	6057	72.3	1357	7414	
9. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS	876	3411	0	4287	51.2	352	4639	
10. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS	301	2772	0	3073	36.7	0	3073	
11. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS	301	2572	0	2873	34.3	0	2873	
12. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS	0	0	0	0	0	0	0	
13. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS	0	200	0	200	2.4	0	200	
14. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS	0	0	0	0	0	0	0	
15. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS	0	0	0	0	0	0	0	
16. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS	573	639	0	1214	14.5	352	1566	
17. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS	359	332	0	691	8.2	22	713	
18. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS	201	300	0	501	6.0	330	831	
19. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS	0	7	0	7	.1	0	7	
20. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS	0	0	0	0	0	0	0	
21. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS	13	0	0	13	.2	0	13	
22. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS	632	2012	0	2644	29.2	1156	3600	
23. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS	300	1470	0	1770	21.1	1005	2775	
PROJECTED RESERVE INCREASES AND PROGRAMMING LEVELS								
FISCAL YEAR	24. NEW CONSTRUCTION							
	25. OFF-BOARD							
	26. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS							
	27. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS							
	28. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS							
FISCAL YEAR	29. NEW CONSTRUCTION							
	30. OFF-BOARD							
	31. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS							
	32. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS							
	33. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS							
FISCAL YEAR	34. NEW CONSTRUCTION							
	35. OFF-BOARD							
	36. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS							
	37. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS							
	38. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS							
FISCAL YEAR	39. NEW CONSTRUCTION							
	40. OFF-BOARD							
	41. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS							
	42. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS							
	43. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS							
FISCAL YEAR	44. NEW CONSTRUCTION							
	45. OFF-BOARD							
	46. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS							
	47. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS							
	48. OFF-BOARD, RESERVE, OFF-BOARD, STUDENTS							

DD FORM 1378

USE FOR OFF-BOARD

FOR OFF-BOARD USE ONLY

AV

APPENDIX C
DD Form 1378 (continued)

QUALITATIVE ANALYSIS OF REQUIREMENTS	REQUIREMENTS			AVAILABLE RESOURCES			DEFICIT (10 - 11)	FISCAL YEAR 1984
	EXISTING	IN REPAIR	REPAIRS LEFT	MILITARY CONTRIBUTION	NON-MILITARY CONTRIBUTION	TOTAL CONTRIBUTION		
10. 0 - 10 THROUGH 0 - 0	23	.4	22	7	11	18	4	
10. 1 AND 2 THROUGH 0 - 0	10	.1	9	0	3	3	6	
10. 3 THROUGH 0 - 0	3	.1	2	1	2	3	4	
10. 4 ON WARE THROUGH 0 - 0	7	.1	6	6	6	12	-6	
10. 5 THROUGH 0 - 0	237	3.5	213	60	99	159	56	
10. 6 THROUGH 0 - 0	78	1.2	70	0	29	29	61	
10. 7 ON WARE THROUGH 0 - 0	98	1.5	88	0	67	67	61	
10. 8 - 10 - 0 - 1 AND 0 - 0	61	.9	55	60	23	83	-28	
10. 1 AND 2 THROUGH 0 - 0	1046	15.5	961	236	663	899	262	
10. 3 THROUGH 0 - 0	723	11.7	618	100	376	476	162	
10. 4 ON WARE THROUGH 0 - 0	235	3.5	235	66	77	143	92	
10. 5 THROUGH 0 - 0	88	1.3	88	68	12	80	8	
10. 6 THROUGH 0 - 0	1308	19.6	1176	301	575	876	300	
10. 7 ON WARE THROUGH 0 - 0	811	12.0	692	100	608	708	189	
10. 8 - 10 - 0 - 1	361	5.1	330	67	126	193	137	
10. 1 AND 2 THROUGH 0 - 0	156	2.3	169	136	61	175	-26	
10. 3 THROUGH 0 - 0	886	13.1	794	778	109	887	-91	
10. 4 ON WARE THROUGH 0 - 0	317	4.7	229	0	65	65	186	
10. 5 THROUGH 0 - 0	299	4.4	299	310	65	355	-56	
10. 6 - 10 - 0 - 1	268	4.0	268	668	19	687	-219	
10. 1 AND 2 THROUGH 0 - 0	6539	67.6	6085	1996	530	2526	1561	
10. 3 THROUGH 0 - 0	3353	69.8	2899	1612	655	2067	832	
10. 4 ON WARE THROUGH 0 - 0	896	13.3	896	207	60	267	429	
10. 5 THROUGH 0 - 0	290	6.3	290	175	15	190	100	
10. 6 - 10 - 0 - 1	5423	82.6	4881	2772	639	3411	1670	
10. 1 AND 2 THROUGH 0 - 0	3670	56.5	3128	1612	500	2112	1016	
10. 3 THROUGH 0 - 0	1195	17.8	1195	517	105	622	573	
10. 4 ON WARE THROUGH 0 - 0	558	8.3	558	663	36	677	-119	
10. 5 THROUGH 0 - 0	6731	.0	6057	3073	1216	4287	1770	
10. 6 - 10 - 0 - 1	4481	66.6	3825	1712	908	2620	1205	
10. 1 AND 2 THROUGH 0 - 0	1536	22.8	1525	586	231	815	710	
10. 3 THROUGH 0 - 0	716	12.6	707	777	75	852	-165	
10. 4 ON WARE THROUGH 0 - 0	0	.0	0	0	0	0	0	
10. 5 THROUGH 0 - 0	0	.0	0	0	0	0	0	
10. 6 - 10 - 0 - 1	0	.0	0	0	0	0	0	
10. 1 AND 2 THROUGH 0 - 0	0	.0	0	0	0	0	0	
10. 3 THROUGH 0 - 0	0	.0	0	0	0	0	0	
10. 4 ON WARE THROUGH 0 - 0	0	.0	0	0	0	0	0	
10. 5 THROUGH 0 - 0	0	.0	0	0	0	0	0	
10. 6 - 10 - 0 - 1	0	.0	0	0	0	0	0	
10. 1 AND 2 THROUGH 0 - 0	6731	.0	6057	3073	1216	4287	1770	
10. 3 THROUGH 0 - 0	4481	66.6	3825	1712	908	2620	1205	
10. 4 ON WARE THROUGH 0 - 0	1536	22.8	1525	586	231	815	710	
10. 5 THROUGH 0 - 0	716	12.6	707	777	75	852	-165	
10. 6 - 10 - 0 - 1	1508	.0	1357	0	352	352	1205	
10. 1 AND 2 THROUGH 0 - 0	1400	92.8	1259	0	339	339	920	
10. 3 THROUGH 0 - 0	95	5.3	86	0	13	13	73	
10. 4 ON WARE THROUGH 0 - 0	13	.9	12	0	0	0	12	

* DD 1377 MILITARY ASSETS DO NOT AGREE WITH LINE 11 DD 1378
Ln 13 DD 1377 does not include 5 inactive fire damaged quarters. Those 5
quarter are reflected on line 6I of DD 1377. These quarters are presently
under repair.

10. AUTHORITY CATION	NAME AND TITLE (Print or Stamp) VEVA J. CALHOUN Chief, Hqs Div, DER	SIGNATURE <i>Veva J. Calhoun</i>	DATE 6 Apr 84
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10. NAME AND LOCATION OF INSTALLATION
FORT POLK, LA

DD FORM 1378

APPENDIX C
DD Form 1379

NARRATIVE ON FAMILY HOUSING	REPORT CONTROL SYMBOL			
<p>1. MISSION The mission of the 5th Infantry Division and Fort Polk is to attain and maintain combat ready posture in support of national defense objectives and to support contingency plans as directed by higher headquarters. To command, operate and maintain the resources of Fort Polk and to accomplish all assigned missions and to provide support to assigned, attached, or tenant units or activities, as required.</p>				
<p>2. LOCATION Fort Polk is located in the Kisatchie National Forest area, approximately eight miles SE of Leesville, LA; 20 miles north of DeRidder, LA; and three miles east of US Highway 171. The population of Leesville now exceeds 20,000, with a parish (county) population of 54,134. DeRidder's population approximates 15,000 with a parish (county) population of 30,304. Larger communities are Alexandria, 53 miles to the east and Lake Charles, 70 miles to the south.</p>				
<p>3. COMMUNITY SUPPORT Local economy adequate housing remains in short supply. Assets that are available to military families consist primarily of older, rental units in less than suitable condition due to poor state of maintenance, antiquated components, and unacceptable environmental factors; rental mobile homes located, for the most part, in parks that are environmentally unacceptable due to lack of fire and police protection; poor sanitary sewage systems; poor water supply systems; unpaved streets; and general lack of owner maintenance and concern; homes for sale in the area, which are in the \$45,000 - \$85,000 price range, are at present in fair supply, but are beyond the means of those below field grade rank due to cash required for down payment and/or assumption, and high monthly mortgage payments.</p>				
<p>4. HOUSING ON POST On-post long range assets consist of 3073 units. Of the 3073 units, 2705 are NCO quarters; 301 CGO quarters (74 of the 301 are temporarily reallocated from NCO units); 60 FGO quarters; five SGO quarters, and two GO quarters. There are 398 trailer spaces on post for privately-owned trailers.</p>				
<p>5. JUSTIFICATION OF PROPOSED HOUSING Efforts by the installation to interest local realtors and builders in constructing housing under low risk HUD mortgage programs have been unsuccessful. Those with investment capital have stated they prefer other more profitable investments than rental real estate. Consequently, only 48 rental units are under construction in the area. Some landlords are purchasing and remodeling old government barrack buildings to be rented as apartments to lower grade NCOs. There are 12 apartments of this type now under construction/renovation. The actual current deficit of family housing units for eligible families is 1323. Of this number, 1323 are on the current housing waiting lists. The long range deficit, based on 100% strength as reflected in ASIP is 3600 for total military and 2644 for eligible personnel. The only apparent means for satisfying the family housing deficit at Fort Polk is by on-post military construction. Land is available, approved and identified in installation master plan. Deficit housing at this installation impacts on quality of life efforts for military families and is a determining factor in reenlistment of many best qualified soldiers. The impact extends to military readiness and may have a direct bearing on national security.</p>				
<p>APPROVED DATE</p>	<p>NAME AND TITLE (Typed or Stamped) VEVA J. CALHOUN C, Housing Division, DEH</p>		<p>SIGNATURE <i>Veve J. Calhoun</i></p>	<p>DATE 6 Apr 84</p>
<p>NAME AND LOCATION OF INSTALLATION: DD FORM 1379</p>				

PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE.

APPENDIX IV TO ANNEX L

MAJORITY MEMBERS

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LOUIS STOKES, OHIO
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BOB CARR, MICHIGAN
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RONALD D. COLEMAN, TEXAS

Congress of the United States
House of Representatives
Committee on Appropriations
Washington, DC 20515

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CLERK AND STAFF DIRECTOR
FREDERICK G. MOHRMAN

TELEPHONE:
(202) 225-2771

December 17, 1985

Mr. Douglas Farbrother
Principal Director (Installations)
Room 3E772
The Pentagon
Washington, D.C. 20301-8000

Dear Mr. Farbrother:

On December 4, 1985, the Committee informed the Department that they had elected to defer the request for build to lease family housing at Fort Wainwright, Alaska under the Section 801 program (P.L. 98-115). The Army's options were to renegotiate or rebid this contract.

The Committee understands that a best and final offer has been received from each contractor and a selection has once again been made. The Committee also understands that the selection still remains with the same successful bidder and that the lease cost for 20 years has been reduced to \$158,094,253 which is about a 5 percent reduction from the original proposal. For this reason the Committee has no objection to the signing of a lease at this reduced price for housing at Fort Wainwright, Alaska.

Sincerely,

Bill Hefner 1/16/86

Bill Hefner, Chairman
Appropriations Subcommittee on
Military Construction



**US Army Corps
of Engineers**
Alaska District

**ECONOMIC ANALYSIS
FOR PROVIDING SECTION 801
MILITARY FAMILY HOUSING
FT. WAINWRIGHT, ALASKA**

**PREPARED
JULY 1985**

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House of Representatives
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Sincerely,

Bill Hefner

Bill Hefner, Chairman
Appropriations Subcommittee on
Military Construction



**US Army Corps
of Engineers**
Alaska District

ECONOMIC ANALYSIS

FOR PROVIDING SECTION 801

MILITARY FAMILY HOUSING

FT. WAINWRIGHT, ALASKA

**PREPARED
JULY 1985**

FORT WAINWRIGHT, ALASKA
LID FAMILY HOUSING
ECONOMIC ANALYSIS

July, 1985

1. EXECUTIVE SUMMARY

A. The Decision Objective

The objective of this study is to determine if a proposed Section 801 military housing lease would be a more economical means of providing 400 family housing units at Fort Wainwright, near Fairbanks, Alaska, as compared to traditional Army constructed and operated family housing units.

B. Background

Section 801 of the Military Construction Authorization Act of 1984 and amendments thereto authorized several pilot programs to determine the cost effectiveness of a lease program to obtain additional housing facilities. If approved by Congress, leased housing facilities would be available for beneficial occupancy in April 1987.

Major provisions set forth in this program are as follows:

- o Occupants would forfeit Basic Allowances for Quarters (BAQ) and Variable Housing Allowances (VHA) in return for assigned quarters.
- o The Government would pay all rent, utilities, and administrative costs.
- o The program cannot be applied to existing housing.
- o The program would be implemented through competitive contracting procedures.
- o The new housing units are required to be constructed at least to minimum DOD specification.
- o The new housing units may be built on private or Government-owned land.
- o The lease term may not exceed 20 years. The developer has 10 additional years of outlease rights before being required to remove all improvements on Government property.
- o A validated deficit in military housing must exist in the general area.
- o Priority shall be given to military families.
- o A contract may not be entered into for the lease of housing facilities under this program until:

(a) The Secretary of Defense submits to the appropriate committees of Congress, in writing, an economic analysis (based upon accepted life cycle

costing procedures) which demonstrates that the proposed contract is cost effective when compared with alternative means of furnishing the same housing facilities.

(b) A period of 21 calendar days has expired following the date on which the economic analysis is received by those committees.

C. Major Assumptions

1. That the Army will have a continuing need for housing at Fort Wainwright for at least 20 years (the term of the 801 lease).
2. That the rent to satisfy the lease will be appropriated for that purpose by Congress on an annual basis.
3. That the owner/developer of the 801 Housing will retain ownership of the project for the full 32-year outlease period and then remove completely all improvements.
4. That maintenance and repair costs in the Army Family Housing (AFH) alternative will experience both real and inflationary increase based on the age of the units, while the 801 housing maintenance rent will experience only an inflationary increase based on its tie to the index of Economic Indicators.
5. That the construction contract for the AFH would be awarded on 30 September 1985 and would require all units to be delivered by 1 April 1987.
6. That an agreement to lease in the 801 Build to Lease (BTL) program would be signed on 30 September 1985 with all the units delivered by 1 April 1987, i.e., the same schedule for both alternatives.
7. That construction will take 18 months.
8. That the 801 lease alternative will be depreciated over a 30-year straight line for tax purposes.
9. That increases in real estate taxes payable in the 801 alternative by the Government will not be considered part of the maintenance rent for the purpose of applying the Economic Indicator index at the start of the following year.
10. That inflation would be applied to future maintenance and repair categories at rates specified by OMB/OSD.
11. That the discount interest rate used throughout the 21 years of project life, to give future expenditures for each alternative an equivalent 1985 value - will be 12 percent.
12. That the same parcel of Government-owned land on Fort Wainwright would be used for construction of the selected alternative.
13. That a 60 percent outlay of capital is made in FY 86 followed by a 40 percent outlay in FY 87 to compensate for retainage and possible early acceptance of completed units prior to 1 April 1987.

D. Alternatives Considered

Two alternatives for providing the needed housing were considered. They were:

1. Army Family Housing (AFH) Alternative - This alternative involves construction of new family housing through the MCA program. The required units would be constructed over an 18-month period (FY86 and FY87), and operated and maintained by the Government for at least a period equal to the term of the 801 lease. These units would be built on Government-owned land on Fort Wainwright.

2. 801 Build to Lease (BTL) Alternative - This alternative involves the leasing of family housing units for 20 years by the Army. These units would be leased from a private developer, who would construct them to at least the DOD minimum specification. These units would be constructed on Fort Wainwright. The land outlease would run for 30 years beyond the end of construction.

E. Methodology

Investigations were made to determine the expense elements which would apply to the two alternatives investigated. The development of expense element estimates is detailed in Appendix A of this report. Computations were performed to estimate the present value of the stream of future expenditures required for the implementation of each alternative. Computer outputs were generated which display the project costs per year with estimated inflationary effects (current dollar analysis), present cost per year, and cumulative present cost per year. The total net cumulative costs were then compared to identify the least costly alternative. The results were then tested for the effects created by changes in cost elements. This "sensitivity analysis" helped identify the importance of each variable in the final result.

F. Economic Analysis Results

Below are the results of the Economic Analysis for the 400 family housing units.

<u>Alternative</u>	<u>Present Worth Net Cost*</u>	<u>Average Annual Equivalent</u>
AFH On-post Construction	\$64,458.170	\$8,523,954
801 Lease	\$56,169.071	\$7,427,807

*Based on a 21-year period of analysis (1986-2006) and a 12 percent discount rate.

The analysis of costs indicates the use of the 801 BTL program to be the least costly and most economically feasible means of meeting an urgent need for Army military personnel family quarters at Fort Wainwright.

G. Sensitivity Analysis Results

Eight variables were tested for the impact created on the overall results of the analysis by changes in each variable. None of these variables proved

very sensitive. Changes in construction costs of AFH construction, and maintenance rent for 801 BTL and repair costs to AFH housing were the most sensitive, but even these items required substantial change before affecting the overall analysis. A detailed discussion of sensitivity is contained in paragraph II D-2.

H. Nonmonetary Factors

Because both alternatives are the same size, are sited at the same location, and are scheduled identically, nonmonetary factors are not an issue.

I. Recommended Action

Because economic analysis indicates that the 801 BTL Program is the least costly means, it is recommended that the Army be authorized to enter into Section 801 leases for 400 units of family housing on Fort Wainwright.

APPENDIX A
DETAILED COST ELEMENT SUMMARY

Appendix A Detailed Cost Element Summary

I. Introduction

This appendix covers the derivation of cost items included in the preceding economic analyses. It also presents the rationale used in the inclusion or noninclusion of the cost elements in each alternative. It shows how each cost element was developed and explains the "wash" cost items.

II. AFH Alternative Costs

A. Construction Cost

New construction costs were based on estimates developed by the Norfolk District, U.S. Army Corps of Engineers using the Tri-Service Family Housing Cost Model. For each project, it was assumed that the appropriate number of housing units would be built on post. The Average Net Square Foot (ANSF) per unit was calculated based on information obtained from the Request for Proposals for the project. The number of units was multiplied by this ANSF and then by a \$46 per square foot cost figure based on "Unit Costs, DOD Facilities" dated August 1984. A project factor was developed by multiplying an Area Cost Factor by a Project Size Factor by a Unit Size Factor. Project Size and Unit Size Factors are given by the model. The Area Cost Factor used was obtained from the "Material and Labor Cost Indexes" from OSD dated September 1983. The project cost was then multiplied by this Project Factor to obtain a Housing Unit Cost. Support costs were assumed to be 30 percent of the Housing Unit Cost in accordance with OCE experience and existing site conditions. The support cost was then added to the Housing Unit Cost. The resulting cost was then multiplied by standard 5 percent contingency and 5.5 percent supervision/administration factors to obtain a final project cost. Detailed computations of these costs for each project are shown at the beginning of the appropriate project appendix.

Construction costs have been time-phased based on reasonable expectations of unit delivery and contract payment. In this case, the cost analysis for each project assumes delivery at midyear (April 1987) with a 60/40 split construction payment schedule in FY 86 and 87, respectively. No inflation was applied to this cost, as it would be a contract price set at the time of award.

The proposed 400-unit project is expected to have the mix of floor space below. This shows derivation of average square feet used per unit:

<u>Bedrooms</u>	<u># Units</u>	<u>Minimum Space</u>	<u>Maximum Space</u>	<u>Average</u>	<u>Total</u>
3	304	1140	1350	1245	378,480
4	68	1285	1450	1368	93,024
5	28	1460	1550	1505	42,140
	<u>400</u>				<u>513,644</u>
				Divided by	<u>400</u>
					1284.11

Table A-1
400 Unit Project
FY 1985 TRI-SERVICE FAMILY HOUSING COST MODEL

SERVICE: Army

Location: Ft. Wainwright, AK

BASELINE:

$$\begin{array}{l} (400) \quad 1284.11 \quad (\$46) = \$ 23,627,624 \\ \text{(No. Units)} \quad \text{(ANSF)} \quad \text{(\$/NSF)} = \underline{5' \text{ Line Cost}} \end{array}$$

PROJECT FACTORS:

$$\begin{array}{l} (2.03) \quad (.98) \quad (.97) = 1.93 \\ \text{(ACF)} \quad \text{(Project Size)} \quad \text{(Unit Size)} = \underline{\text{Project Factor}} \end{array}$$

HOUSING UNIT COST:

$$\begin{array}{l} (\$23,625,600) \quad (1.93) = \$45,601,314 \\ \text{(5' Line Cost)} \quad \text{(Project Factor)} = \underline{\text{Housing Unit Cost}} \end{array}$$

$$\begin{array}{l} (\$ -0-) \quad (\text{ACF}) \quad (\text{Unit}) = \$ \text{N/A} \quad (\text{passive}) \\ \text{(Solar Cost)} \quad \text{(ACF)} \quad \text{(Unit)} = \underline{\text{Total Project Solar Cost}} \end{array}$$

$$\begin{array}{l} (\$45,601,314) + (-) / (400) = \$114,000 \\ \text{(Unit Cost)} + \text{(Solar)} / \text{(No. Units)} = \underline{\text{Average Unit Cost}} \end{array}$$

SUPPORTING COST:

Site Preparation
Roads and Paving Assume Standard
Utilities
Recreation 30%
Landscaping
Special Construction

$$\begin{array}{l} () \quad () \quad () = \$13,680,394 \\ \text{(Totals)} \quad \text{(ACF)} \quad \text{(No. Units)} = \underline{\text{Support Cost}} \end{array}$$

SUMMARY:

$$\begin{array}{l} (\$45,601,314) + (-) + (\$13,680,394) = \$59,281,708 \\ \text{(Unit Cost)} + \text{(Solar Cost)} + \text{(Support Cost)} = \underline{\text{Subtotal}} \end{array}$$

$$\begin{array}{l} (\$59,281,703) \quad (1.05) \quad (1.055) = \$65,669,311 \\ \text{(Subtotal)} \quad \text{(Contingency)} \quad \text{(SI0H)} = \underline{\text{Project Total}} \end{array}$$

Project Cost = **\$65,700,000** (rounded)

ANSF - Average Net Square Feet / Unit
ACR - Area Cost Factor

PROJECT SIZE - (No. Units)	UNIT SIZE - (Net Square Feet)
1 - 49 Units = 1.05	950 - 1050 = 1.00
50 - 99 Units = 1.02	1051 - 1150 = 0.99
100 - 199 Units = 1.00	1151 - 1250 = 0.98
200 - 499 Units = 0.98	1251 - 1350 = 0.97
500 + Units = 0.95	1351 + = 0.96

For new construction of the 400 units, the average floor space used in all calculations is 1284.11 square feet. This number is entered into the FY 1985 Tri-Service Family Housing Cost Model shown in Table A-1.

B. Land Cost

A land cost is considered a "wash" cost because the same parcel of government land is to be used for development of either alternative.

C. Maintenance and Repair Costs

Basic figures representing long term historic costs were supplied by the Housing Resources Branch of the Army Housing Division of the Office of the Assistant Chief of Engineers.

The furnished FY83 average (non-foreign source housing) costs of \$978/unit CONUS-wide average (for units 0 to 13 years old) and \$1,535 (for units 14 to 33 years old) inflated to current (FY86) dollars indicate \$1,099 and \$1,725 respectively. Applying the Fort Wainwright Area cost factor of 2.03 makes these costs \$2,230 and \$3,502. If these costs are assumed to apply to the median ages of 6.5 and 23.5 years for the two classes of units, a linear model can be developed. Using linear regression yields the following cost per unit based on the formula $Y = 1,743 + 74 X$; where (X) is each year and (Y) is total cost.

Table A-2
Maintenance and Repair Costs

<u>Year</u>	<u>Per Unit</u>	<u>Project</u>	<u>Year</u>	<u>Per Unit</u>	<u>Project</u>
1986	-0-	-0-	1996	2,489	995,600
87	\$1,817	\$ 363,400 1/	97	2,565	1,026,000
88	1,891	756,400	98	2,639	1,055,600
89	1,967	786,800	1999	2,713	1,085,200
90	2,042	816,800	2000	2,787	1,114,800
91	2,112	844,800	01	2,863	1,145,200
92	2,190	876,000	02	2,938	1,175,200
93	2,266	906,400	03	3,012	1,204,800
94	2,340	936,000	04	3,086	1,234,400
95	2,414	965,600	05	3,160	1,264,000
			06	\$3,236	\$1,294,400

1/ Represents 1/2 year in first year of occupancy.

Project costs were obtained by multiplying the appropriate number of units by the above costs. This is OMB/OSD accepted methodology.

At first glance, this approach would appear to yield costs which are too high in the initial years of project life. This is explained by noting that the BP 1920 cost account from which these costs are obtained includes a reserve for replacing units lost by fire, flood and other hazards. Thus, this M&R cost includes an expense that a private developer would pay as a part of his insurance cost. It should be noted that this cost does not include the cost of deferred maintenance or rehabilitation and is, therefore, considered more reliable than installation average costs which often include these items.

This cost category is considered subject to both real growth (caused by aging of the units), and inflationary growth. Costs have been projected accordingly. In addition, these costs are assumed to begin at delivery of the units.

D. Equipment Costs

This cost category includes the cost of service and replacement of appliances in the family housing units. Replacement costs were based on an estimated 10-year life of the appliances and estimated costs. Also assumed were GSA catalog purchase and delivery costs to Fairbanks. Service costs were calculated for intermediate years including parts and labor to repair appliances. Only refrigerator and range costs are in this item, as the remaining appliances are included in maintenance and repair costs as installed equipment.

Replacement costs were calculated as follows:

Refrigerator	\$380
Range	575
Total FY84 Cost	\$955
Inflated to FY86	1.0826
	\$1,033.88
	Say \$1,035/unit

400 units X \$1,035 = \$414,000 replacement cost at year 10.

It was assumed that \$20 per unit per year was on appropriate local cost of repair for use in the computer, based upon Alaska labor costs. The annual costs were calculated as follows:

400 units @ \$20/unit/year = \$8,000/year

These costs were time-phased based on unit delivery in FY87; half a year's charge was applied in 1987 with a full charge every other year except in 1997 when equipment is to be fully replaced.

E. Imputed Insurance Costs

The insurance cost element includes the imputed cost of liability insurance only. Structure replacement is covered under the Maintenance and Repair cost element as noted. Estimates of these costs are based on estimates from commercial insurance sources near Fort Wainwright. Using a \$500,000 limit, these sources estimate the cost of liability insurance at \$45 per unit. This figure was applied to all of the units and was time-phased in accordance with the delivery of units specified under the construction cost element. This cost element was considered subject to inflationary growth only.

Costs were calculated as follows:

1986 - Units under construction = \$0
1987 - 400 units @ \$45/year X .5 year = \$ 9,000
1988 thru 2006 - 400 units @ \$45/year = \$18,000

F. Service Cost

Costs in this element include refuse collection/disposal, entomological (pest control) services, snow removal and custodial services in public and common areas. These services are included in the 801 Lease alternative as either real estate taxes paid by the developer or maintenance rent.

The Fort Wainwright Family Housing Office provided FY84 costs for these services. These costs were estimated to be \$286,000 in FY84 dollars based on historical data furnished. Escalation to current (FY 86) dollars suggests a cost of \$310,825.

G. Residual Value

This residual value element represents the value which the Government will retain in the property it owns outright at the end of the 19.5-year lease period. This value was computed by use of the Building Decay - Obsolescence and Site Appreciation factors promulgated in Appendix B of OMB Circular A-104 dated 14 June 1972. Construction costs and site costs are treated separately in order to apply different factors to each. Both were inflated based on OMB/OSD indices to FY2006 dollars prior to application of these factors:

400 Unit Project

FY86 Construction Cost	\$ 65,669,311
X Inflation factor to FY2006	2.019
equals FY2006 cost	\$132,585,712
X Building Obsolescence Factor	.70969
equals Residual Value of Improvements	\$ 94,095,945

H. School Impact Aid

An additional cost element was added to the AFH alternative to represent a previously unaddressed cost item. An impact aid cost was calculated to represent the costs associated with school age children to the local area educational system. Based on Army demographics, it was assumed that there were 1.9 children per household and that 46 percent would be school age, resulting in .874 school age children per unit on the average.

Additional costs of \$320/year/student (\$111,872 total) are provided for students living in Government quarters. This was costed against the AFH option and not against the 801 option, because property taxes will be paid under the 801 program. The cost was derived from discussions with local school officials. Half a year's aid is programmed for 1987 based on delivery of the units by April.

I. Administrative Costs

The Family Housing Office (FHO) provided the 1984 administrative costs for the existing 1,421 units on Fort Wainwright. This cost of \$416,800 was inflated to 1986 dollars. To this was added the estimated effective salary

(including estimated overheads, benefits, and COLA) of two GS-7 level persons expected to supplement the administrative staff after completion of the units. The cost applied is as follows:

Prorated cost	$\$416,800 + 1,421 \times 400 \times 1.0868$	$= \$127,510$
Labor Cost	$\$17,824 \times 2.43 \times 2 \times 1.042$	$= \$90,262$
	Rounded Sum	$= \$217,775$

III. 801 Lease Alternative

A. Shelter Rent

This cost is taken directly from the selected proposal for each project. It will remain fixed for the 19.5-year term, but the developer is expected to deliver all 400 units by 1 April 1987. Because 1 April is midway through the fiscal year, half a year's rent is paid the first fiscal year, FY 87.

Shelter rent for the 400 unit project was calculated as follows:

1987 - 400 units for 6 months	$\times \$1,486/\text{month/unit}$	$= \$3,567,000$
1988 thru 2007 - 400 units for 12 month	$\times \$1,486/\text{month/unit}$	$= \$7,134,880$

B. Maintenance Rent

This cost element is taken directly from the selected proposal for each project and is intended to include the developer's cost to maintain and repair the project. This rent is to be increased or decreased at the beginning of each year after the first year of the lease by the increase or decrease of the Housing, Shelter, Maintenance and Repair Index for the preceding 12 months of the "Economic Indicators" prepared for the Joint Economic Committee of the Congress by the Council of Economic Advisors. For the purpose of the economic analysis it is assumed that the OMB/OSD inflation indexes supplied (Table A-3) will equate to changes in the "Economic Indicators" for the analysis period.

As in the Shelter Rent element, half a year's rent is charged the first year, followed by 19 years of full rental payments.

1987 - 400 units for 6 months	$\times \$209/\text{month/unit}$	$= \$502,460$
1988 thru 2007 - 400 units for 12 months	$\times \$209/\text{month/unit}$	$= \$1,004,920$

Table A-3
Annual Rates of Inflation Stipulated by OMB/OSD

From Fiscal Year	To Fiscal Year	Increase By (Percent)
1984	1985	4.0
1985	1986	4.4
1986	1987	4.2
1987	1988	4.0
1988	1989	3.7
1989	Beyond	3.4

C. Increase in Real Estate Taxes

The Request for Proposals on each project specifies that the Government will pay 80 percent of any increase in total general real estate taxes over those levied in the second lease year. Since the present schedule calls for final delivery of units and signing of the lease on 1 April 1987 (FY 87), FY88 is considered the second year of the lease and consequently the base year for any increase in real estate taxes, as shown on Table A-4.

The developer's expected commercial appraisal per unit is estimated at \$156,335. The total 1986 value is estimated at \$55,819,600. Using a total mill rate of 9 (2 borough, 7 city), the 1988 bill is expected to be \$609,981. This is the \$62,542,200 times 9 mills and escalated 4.2 percent in 1987 and 4.0 percent in 1988 as stipulated by OMB/OSD.

Table A-4
BUILD TO LEASE FAMILY HOUSING
TAX BILL SCHEDULE 1/

<u>Project</u>	<u>Fiscal</u>	<u>Tax Year</u>	<u>Increase</u>	<u>Government Bill 80%</u>
1	1986	0	0	0
2	87	0	0	0
3	88	609,981	0	0
4	89	632,550	22,569	\$18,055
5	90	654,057	21,506	17,205
6	91	676,294	22,237	17,790
7	92	699,288	22,994	18,395
8	93	723,064	23,775	19,021
9	94	747,649	24,584	19,667
10	95	773,069	25,420	20,336
11	96	799,353	26,284	21,027
12	97	826,531	27,178	21,742
13	98	854,633	28,102	22,482
14	99	883,691	29,057	23,246
15	2000	913,736	30,045	24,036
16	01	944,803	31,067	24,854
17	02	976,926	32,123	25,699
18	03	1,010,142	33,215	26,572
19	04	1,044,487	34,344	27,476
20	05	1,079,999	35,512	28,410
21	06	1,116,719	36,719	29,376

1/ Escalated according to rates of Table A-3.

D. Revenue Derived from Outlease

This category is an alternative cost category covering loss of use of the land by the government for the last 10 years of the program. The terms of the contract grant the developer a 30-year land lease after completion of the units. For the first 19-1/2 years the Army has contracted for the lease of the buildings. For the remaining 10 years the contractor is required to pay the Government outlease rental for use of the land. This creates an increase

in revenue for the Federal Government. Fair market rental rates were estimated for the years 2007 to 2016 and are expected to have a present value in the year 2006 of \$985,936. This value was given a negative cost to the Government in year 2006 and was subjected to present value calculations as were other cost kinds. This assumes the 20-year lease option is not exercised.

IV. Wash Costs

These are cost kinds which were considered but not used in the numerical economic analysis because they are virtually identical in both alternatives.

- o LAND - both the BTL and AFH alternatives would be constructed on the same tract of land.

- o UTILITIES - units constructed for both alternatives are assumed to have identical efficiencies and rate structures.

- o RENT ALLOWANCES - the delivery schedules are assumed to be the same; therefore, no allowance is expected during construction.

- o FIRE AND POLICE - not included in either alternative because the Army will provide both to either the BTL or AFH alternative.

APPENDIX B
PERTINENT FORMS AND DOCUMENTS

(6) The maximum rental per year for family housing facilities, or for real property related to family housing facilities, leased in a foreign country under section 2825(n) of title 10, United States Code, is \$250,000.

EFFECTIVE DATE FOR PROJECT AUTHORIZATIONS

Sec. 609. Titles I, II, III, IV, and V of this Act shall take effect on October 1, 1983.

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

10 USC 2231 et seq.

Sec. 701. There are authorized to be appropriated for fiscal years beginning after September 30, 1983, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 183 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, \$66,826,000; and

(B) for the Army Reserve, \$54,700,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, \$28,245,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, \$108,620,000; and

(B) for the Air Force Reserve, \$41,200,000.

MODIFICATION OF GUARD AND RESERVE MINOR CONSTRUCTION AUTHORITY

Effective date.

Sec. 702. Effective on October 1, 1983, section 2233(a)(1) of title 10, United States Code, is amended by striking out "\$200,000" and inserting in lieu thereof "\$400,000".

TITLE VIII—GENERAL PROVISIONS

MILITARY FAMILY HOUSING LEASING PROGRAM

Validated deficit.

Sec. 801. Section 2828 of title 10, United States Code, is amended by adding at the end thereof the following subsection:

"(g)(1) Notwithstanding any other provision of law, the Secretary of a military department may enter into a contract for the lease of family housing units to be constructed on or near a military installation within the United States under the Secretary's jurisdiction at which there is a validated deficit in family housing. Housing units leased under this subsection shall be assigned, without rental charge, as family housing to members of the armed forces who are eligible for assignment to military family housing. A contract under this section shall include a provision that the obligation of the United States to make payments under the contract in any fiscal year is subject to the availability of appropriations for that purpose.

"(2) Each contract under paragraph (1) shall be awarded through the use of publicly advertised, competitively bid or competitively

negotiated contracting procedures. Such a contract may provide for the contractor of the housing facilities to operate and maintain such housing facilities during the term of the lease.

"(3) Each contract under this subsection shall require that housing units constructed pursuant to the contract shall be constructed to Department of Defense specifications.

"(4) A contract under this subsection may be for any period not in excess of 20 years (excluding the period required for construction of the housing facilities).

"(5) A contract under this subsection shall provide that, upon the termination of the lease period, the United States shall have the right of first refusal to acquire all right, title, and interest to the housing facilities constructed and leased under the contract.

"(6) A contract may not be entered into for the lease of housing facilities under this subsection until—

"(A) the Secretary of Defense submits to the appropriate committees of Congress, in writing, an economic analysis (based upon accepted life cycle costing procedures) which demonstrates that the proposed contract is cost effective when compared with alternative means of furnishing the same housing facilities; and

"(B) a period of 21 calendar days has expired following the date on which the economic analysis is received by those committees.

"(7) This subsection may be implemented only by a pilot program. In carrying out such pilot program—

"(A) the Secretary of each military department may not enter into more than two contracts under this subsection; and

"(B) any such contract may not be for more than 300 family housing units.

"(8) A contract may not be entered into under this subsection after October 1, 1965."

Contract time
limitation

First refusal
right

Economic
analysis,
submission to
congressional
committees.

Pilot program.

MILITARY HOUSING RENTAL GUARANTEE PROGRAM

Sec. 802. (a) The Secretary of a military department, under uniform regulations prescribed by the Secretary of Defense, may enter into an agreement to assure the occupancy of rental housing to be constructed by a private developer or by a State or local housing authority on private land, on land owned by a State or local government, or on land owned by the United States, if the housing is to be located on or near a new military installation or an existing military installation that has a shortage of housing to meet the requirements of eligible members of the Armed Forces (with or without accompanying dependents). An agreement under this section shall include a provision that the obligation of the United States to make payments under the agreement in any fiscal year is subject to the availability of appropriations for that purpose.

(b) An agreement under subsection (a)—

(1) may not assure the occupancy of more than 97 percent of the units constructed under the agreement;

(2) shall establish initial rental rates that are not more than rates for comparable rental dwelling units in the same general market area and may include an escalation clause for operation and maintenance costs which shall (if included) be effective for the term of agreement;

(3) may not apply to existing housing;

10 USC 2622;
note.

Payments
provision

Agreement
conditions

- (4) shall require that the housing units be constructed to Department of Defense specifications;
- (5) may not be for a term in excess of 15 years;
- (6) may not be renewed;
- (7) may not assure more than an amount equivalent to the shelter rent of the housing units, determined on the basis of amortizing initial construction costs;
- (8) may only be entered into to the extent that there is a validated deficit in military family housing;
- (9) may only be entered into if existing military-controlled housing at all installations in the commuting area (except for a new installation or an installation for which there is projected a significant increase in the number of families due to an increase in the number of authorized personnel) has exceeded 97 percent use for a period of not less than 18 consecutive months immediately preceding the date on which the agreement is entered into, excluding units temporarily inactivated for major repair or improvements;
- (10) shall provide for priority of occupancy for military families; and
- (11) shall include a clause rendering the agreement null and void if, in the opinion of the Secretary of the military department concerned, the owner of the housing fails to maintain a satisfactory level of operation and maintenance.
- (c) An agreement under subsection (a) shall be made through the use of publicly advertised, competitively bid or competitively negotiated procedures.
- (d) An agreement may not be entered into under subsection (a) until—

Economic analysis, submittal to congressional committees.

- (1) the Secretary of Defense submits to the appropriate committees of Congress, in writing, an economic analysis (based upon accepted life cycle costing procedures) which demonstrates that the proposed agreement is cost effective when compared with alternative means of furnishing the same housing facilities; and

- (2) a period of 21 calendar days has expired following the date on which the economic analysis is received by those committees.
- (e) The Secretary concerned may require that disputes arising under an agreement entered into under subsection (a) be decided in accordance with the procedures provided for by the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

Pilot program.

- (f) This section may be implemented only by a pilot program. In carrying out such pilot program—

- (1) the Secretary of each military department may not enter into more than two agreements under this section; and
- (2) the Secretary of a military department may not enter into such an agreement for more than 300 family housing units at one location.

- (g) An agreement may not be entered into under this section after September 30, 1985.

FAMILY HOUSING CONSTRUCTED OVERSEAS

SEC. 803. (a) The Secretary of Defense shall ensure that any contract entered into for the construction of military family housing for the Department of Defense in a foreign country shall require the

DETERMINATION OF HOUSING REQUIREMENTS AND PROJECT COMPOSITION							REPORT CONTROL SYMBOL	
DESCRIPTION OF LONG-RANGE HOUSING REQUIREMENTS	OFFICERS		ENLISTED MEN				OFFICERS ENLISTED	TOTAL
	OPERATIONAL	STUDENTS	OPERATIONAL		STUDENTS			
			BLANKETS	OTHER	BLANKETS	OTHER		
1 TOTAL PERSONNEL STRENGTH	777		3713	1402				
2 PERMANENT PARTY HOUSING STRENGTH	777		3713	1402				
3 HOUSING REQUIREMENTS FACTOR	83.3		74.0	26.0				
4 GROSS HOUSING REQUIREMENTS	647		2748	365				
DETERMINATION OF LONG-RANGE HOUSING DEFICIT								
	OFFICERS	BLANKETS ENLISTED	NET OFFICERS	NET-TOTAL (2-3)		OFFICERS ENLISTED	TOTAL	
5 GROSS BLANKET HOUSING REQUIREMENTS	647	3113		3760				
6 VOLUNTARILY SEPARATED FAMILIES	11	593		604				
7 EFFECTIVE HOUSING REQUIREMENTS (2-6-6)	636	2520		3156				
8 OPERATING UNIT - 90	572	2268		2840				
9 DETAILABLE HOUSING ASSETS (FROM 8-10)	431	1868		2299				
10 MILITARY CONTROLLED ASSETS (FROM 8-10)	262	1177		1439				
11 MILITARY OWNED - EXISTING	262	1177		1439				
12 MILITARY OWNED - UNDER CONSTRUCTION								
13 MILITARY OWNED - APPROVED								
14 MILITARY LEASED - EXISTING AND APPROVED								
15 OTHER HOUSING								
16 NET MILITARY CONTROLLED HOUSING (8-15)	189	691		880				
17 CURRENTLY OCCUPIED - OWNED	33	49		82				
18 CURRENTLY OCCUPIED - RENTED	76	448		524				
19 CURRENTLY VACANT - PRIVATE FOR RENT	31	63		94				
20 CURRENTLY VACANT - FOR AND ON THE RENT								
21 GROSS DEFICIENCY (7-16)	49	131		180				
22 NET HOUSING DEFICIT (7-16)	205	652		857				
23 HOUSING DEFICIT (7-16)	161	600		761				
PROPOSED HOUSING INCREMENTS AND PROGRAMMING LEVELS								
FISCAL YEAR 70	24 NEW CONSTRUCTION							
	25 OTHER HOUSING							
	26 MILITARY PROGRAMMING LEVEL - 60 (1-2-3-4-5)							
	27 MILITARY PROGRAMMING LEVEL - PERCENT (1-2-3-4-5)							
	28 TOTAL PROGRAMMING LEVEL - 60 (1-2-3-4-5)							
FISCAL YEAR 71	24 NEW CONSTRUCTION							
	25 OTHER HOUSING							
	26 MILITARY PROGRAMMING LEVEL - 60 (1-2-3-4-5)							
	27 MILITARY PROGRAMMING LEVEL - PERCENT (1-2-3-4-5)							
	28 TOTAL PROGRAMMING LEVEL - 60 (1-2-3-4-5)							
FISCAL YEAR 72	24 NEW CONSTRUCTION							
	25 OTHER HOUSING							
	26 MILITARY PROGRAMMING LEVEL - 60 (1-2-3-4-5)							
	27 MILITARY PROGRAMMING LEVEL - PERCENT (1-2-3-4-5)							
	28 TOTAL PROGRAMMING LEVEL - 60 (1-2-3-4-5)							
FISCAL YEAR 73	24 NEW CONSTRUCTION							
	25 OTHER HOUSING							
	26 MILITARY PROGRAMMING LEVEL - 60 (1-2-3-4-5)							
	27 MILITARY PROGRAMMING LEVEL - PERCENT (1-2-3-4-5)							
	28 TOTAL PROGRAMMING LEVEL - 60 (1-2-3-4-5)							
FISCAL YEAR 74	24 NEW CONSTRUCTION							
	25 OTHER HOUSING							
	26 MILITARY PROGRAMMING LEVEL - 60 (1-2-3-4-5)							
	27 MILITARY PROGRAMMING LEVEL - PERCENT (1-2-3-4-5)							
	28 TOTAL PROGRAMMING LEVEL - 60 (1-2-3-4-5)							
29 NAME AND LOCATION OF INSTALLATION: Ft. Wainwright, Alaska								

DETERMINATION OF HOUSING REQUIREMENTS AND PROJECT COMPOSITION

QUALITATIVE ANALYSIS OF REQUIREMENTS	REQUIREMENTS		SUITABLE HOUSING			PROGRAM DEFICIT (N BRNO F)	FISCAL YEAR PROJECT
	EFFECTIVE	PERCENT	PROGRAM LIMIT	MILITARY CONTROL	OFF POST	TOTAL M + F	
11 0-10 THROUGH 0-6							
12 1 AND 2 BEDROOMS							
13 3 BEDROOMS							
14 4 OR MORE BEDROOMS							
15 0-6 AND 0-6							
16 1 AND 2 BEDROOMS							
17 3 BEDROOMS							
18 4 OR MORE BEDROOMS							
19 0-6 AND 0-6							
20 1 AND 2 BEDROOMS							
21 3 BEDROOMS							
22 4 OR MORE BEDROOMS							
23 0-6 - 0-6 AND 0-6 - 0-6							
24 1 AND 2 BEDROOMS							
25 3 BEDROOMS							
26 4 OR MORE BEDROOMS							
27 OFFICERS - TOTAL							
28 1 AND 2 BEDROOMS							
29 3 BEDROOMS							
30 4 OR MORE BEDROOMS							
31 E-6 - E-7							
32 1 AND 2 BEDROOMS							
33 3 BEDROOMS							
34 4 OR MORE BEDROOMS							
35 E-6 - E-6 (NIGHT)							
36 1 AND 2 BEDROOMS							
37 3 BEDROOMS							
38 4 OR MORE BEDROOMS							
39 ALL ELIGIBLE ENLISTED							
40 1 AND 2 BEDROOMS							
41 3 BEDROOMS							
42 4 OR MORE BEDROOMS							
43 ALL ELIGIBLE MILITARY							
44 1 AND 2 BEDROOMS							
45 3 BEDROOMS							
46 4 OR MORE BEDROOMS							
47 KEY CIVL - E EQUIVALENT							
48 1 AND 2 BEDROOMS							
49 3 BEDROOMS							
50 4 OR MORE BEDROOMS							
51 KEY CIVL - E EQUIVALENT							
52 1 AND 2 BEDROOMS							
53 3 BEDROOMS							
54 4 OR MORE BEDROOMS							
55 ALL ELIGIBLE CATEGORIES		100%					
56 1 AND 2 BEDROOMS							
57 3 BEDROOMS							
58 4 OR MORE BEDROOMS							
59 E-6 (NIGHT) - E-6		100%					
60 1 AND 2 BEDROOMS							
61 3 BEDROOMS							
62 4 OR MORE BEDROOMS							

100. REMARKS (If more space is needed, continue on back)

- Ln 1 - Total personnel strength was obtained from the 172d Inf Bde (AK) Force Development Office on 20 Jan 85
- Ln 3 - Hsg requirements factor obtained from 3 year marriage factor from the CY 84 survey
- Lns 10 and 11 - Depict FH qtrs as allocated - not as-built. 10 DU up for disposal
- Lns 17 and 18 - Show latest figures available are not included.
- Lns 19 and 21 - Do not depict military fair share but depict the number of units the Hsg Mgrs feel the military will actually be able to obtain of the total number available.

101. NAME AND TITLE (Typed or Stamped)	SIGNATURE	DATE
H. A. FROEHLE COL. CE, DEH	<i>[Signature]</i>	21 Jan 85
NAME, LOCATION OF INSTALLATION Ft Wainwright, Alaska		

ARMY FAMILY HOUSING ALTERNATIVE

PROJECT / PROGRAM COSTS

YEAR	NEW CONSTRUCTION COSTS (01)	MAINTENANCE AND REPAIR (02)	EQUIPMENT COSTS (03)	IMPLIED INSURANCE (04)	SERVICES (05)	ADMIN COSTS (06)	SCHOOL IMPACT AID (07)	RESIDUAL (08)	TOTAL ANNUAL OUTLAYS	DISCOUNTED PRESENT VALUE	CUMULATIVE NET DISC P.V.
1971	039,483,000	00	00	00	00	00	00	00	039,483,000	037,231,390	037,231,390
1972	026,660,000	0370,662	04,167	09,377	0161,939	0113,459	050,825	00	026,993,092	022,773,956	060,005,346
1973	00	0819,695	08,669	019,586	0316,834	0235,998	0121,213	00	01,541,937	01,161,596	061,166,943
1974	00	0884,187	08,990	020,227	0349,297	0254,730	0123,719	00	01,633,152	01,098,487	062,265,431
1975	00	0949,180	09,295	020,915	0361,173	0253,651	0123,993	00	01,723,510	01,034,999	063,300,430
1976	00	01,013,020	09,611	021,626	0373,453	0261,654	0130,413	00	01,818,781	0072,563	064,023,024
1977	00	01,088,292	09,510	021,362	0385,191	0270,551	0130,903	00	01,916,270	0077,363	064,791,188
1978	00	01,168,245	09,276	021,122	0399,280	0279,749	0143,700	00	02,020,403	0083,614	065,624,803
1979	00	01,243,479	09,666	021,900	0412,855	0289,661	0148,594	00	02,120,496	0088,306	066,513,109
1980	00	01,326,173	09,987	022,721	0426,092	0299,896	0154,647	00	02,241,810	0093,704	067,446,814
1981	00	01,413,066	011,360	023,962	0441,407	0309,285	0160,871	00	02,360,333	0098,990	068,435,804
1982	00	01,506,577	012,146	025,431	0456,415	0319,780	0168,272	00	02,481,669	0103,720	069,477,524
1983	00	01,602,743	012,539	027,329	0471,933	0334,653	0173,633	00	02,604,325	0108,268	070,561,787
1984	00	01,702,787	012,982	029,210	0487,970	0351,095	0180,604	00	02,730,033	0113,044	071,694,831
1985	00	01,809,683	013,420	031,240	0504,870	0368,519	0187,779	00	02,861,923	0118,083	072,872,814
1986	00	01,922,239	013,884	033,202	0521,725	0385,927	0194,163	00	03,000,000	0123,116	074,105,930
1987	00	02,039,663	014,356	035,202	0539,464	0403,810	0200,753	00	03,145,181	0128,116	075,384,046
1988	00	02,162,132	014,844	037,202	0557,771	0423,106	0207,591	00	03,294,007	0133,116	076,717,153
1989	00	02,290,571	015,349	039,536	0576,771	0447,046	0214,649	00	03,447,007	0138,116	078,105,260
1990	00	02,423,244	015,871	041,536	0595,201	0471,046	0221,947	00	03,604,007	0143,116	079,548,367
1991	00	02,560,014	016,371	043,710	0616,650	0496,046	0229,947	00	03,764,007	0148,116	081,032,474

UNIFORM ANNUAL EQUIVALENT = 00,523,954 (12.00% DISCOUNT RATE, 21 YEARS)

APPENDIX C
COMPUTER RESULTS

.....

S E N S I T I V I T Y A N A L Y S I S

R A N K I N G

001 VRS MCA

NO. 003
 TITLE CONSTRUCTION COSTS
 ALLOWABLE CHANGE 100.00 PERCENT
 TIME PERIOD 21 YEARS

FOR SELECTED ALTERNATIVE .. 1
 COST ITEMS TO CHANGE ... 1

FOR SELECTED ALTERNATIVE .. 2
 COST ITEMS TO CHANGE ... ** NOTHING CHANGED **

OBJECTIVE RANK ALTERNATIVE 1 FIRST

I N I T I A L R A N K I N G		F I N A L R A N K I N G	
ALTERNATIVE	NET DISCOUNTED P.V.	ALTERNATIVE	NET DISCOUNTED P.V.
2	\$56,169,071	1	\$56,186,037
1	\$64,458,170	2	\$56,169,071

REQUIRED PERCENTAGE IS -14.06 %

.....

SUMMARY OF CALCULATION RESULTS
NET DISCOUNTED PRESENT VALUE

PAGE 1

801 VRS MCA

ALTERNATIVE ARMY FAMILY HOUSING 801 ON-POST	FY1986 \$37,231,390 80	FY1987 \$60,005,346 \$3,451,459	FY1988 \$61,166,853 \$9,646,331
ALTERNATIVE ARMY FAMILY HOUSING 801 ON-POST	FY1989 \$62,265,261 \$15,216,710	FY1990 \$63,300,260 \$20,212,809	FY1991 \$64,273,824 \$24,695,213
ALTERNATIVE ARMY FAMILY HOUSING 801 ON-POST	FY1992 \$65,191,188 \$28,717,301	FY1993 \$66,054,803 \$32,326,862	FY1994 \$66,867,109 \$35,566,681
ALTERNATIVE ARMY FAMILY HOUSING 801 ON-POST	FY1995 \$67,630,894 \$38,475,068	FY1996 \$68,348,993 \$41,086,330	FY1997 \$69,186,021 \$43,431,188
ALTERNATIVE ARMY FAMILY HOUSING 801 ON-POST	FY1998 \$69,820,169 \$45,537,158	FY1999 \$70,415,686 \$47,428,889	FY2000 \$70,974,767 \$49,128,458
ALTERNATIVE ARMY FAMILY HOUSING 801 ON-POST	FY2001 \$71,499,727 \$50,655,647	FY2002 \$71,992,404 \$52,028,178	FY2003 \$72,454,560 \$53,261,933
ALTERNATIVE ARMY FAMILY HOUSING 801 ON-POST	FY2004 \$72,887,978 \$54,371,146	FY2005 \$73,294,347 \$55,368,573	FY2006 \$64,458,170 \$56,169,071

** UNIFORM ANNUAL EQUIVALENTS **

1. ARMY FAMILY HOUSING
2. 801 ON-POST

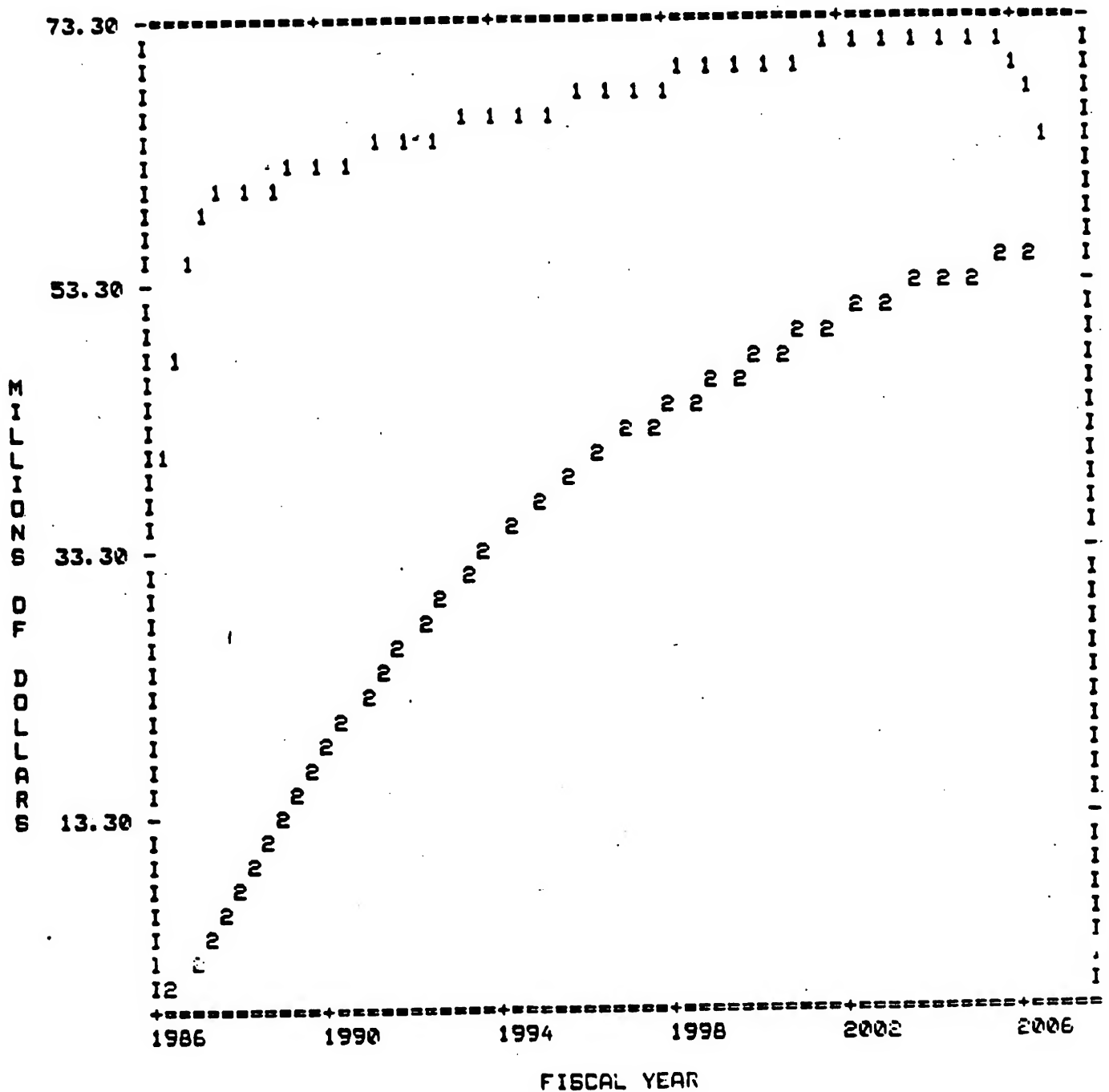
\$8,523,954
\$7,427,803

801 BUILD-TO-LEASE ALTERNATIVE **PROJECT / PROGRAM COSTS**

YEAR	SHELTER RENT (01)	MAINTENANCE RENT (02)	REAL ESTATE TAX (03)	LEASE REVENUE (04)	TOTAL ANNUAL OUTLAYS	DISCOUNTED PRESENT VALUE	CUMULATIVE NET DISC P.V.
1986	00	00	00	00	00	00	00
1987	03,567,440	0323,563	00	00	04,091,003	03,451,459	03,451,459
1988	07,134,000	01,009,011	00	00	08,223,091	06,194,871	09,646,331
1989	07,134,000	01,129,305	010,055	00	08,282,240	05,570,370	015,216,710
1990	07,134,000	01,167,701	017,205	00	08,319,706	04,996,099	020,212,009
1991	07,134,000	01,207,403	017,790	00	08,360,073	04,482,403	024,693,213
1992	07,134,000	01,248,455	018,395	00	08,401,730	04,022,000	028,717,301
1993	07,134,000	01,290,902	019,021	00	08,444,003	03,609,560	032,326,062
1994	07,134,000	01,334,793	019,667	00	08,489,340	03,239,810	035,565,601
1995	07,134,000	01,380,176	020,336	00	08,535,392	02,900,307	038,475,060
1996	07,134,000	01,427,102	021,027	00	08,583,009	02,611,261	041,006,330
1997	07,134,000	01,475,623	021,742	00	08,632,245	02,344,857	043,431,180
1998	07,134,000	01,525,794	022,402	00	08,683,156	02,105,970	045,537,150
1999	07,134,000	01,577,671	023,206	00	08,735,797	01,891,730	047,420,009
2000	07,134,000	01,631,312	024,036	00	08,790,220	01,699,569	049,120,450
2001	07,134,000	01,686,777	024,854	00	08,846,511	01,527,100	050,653,647
2002	07,134,000	01,744,127	025,699	00	08,904,706	01,372,531	052,020,170
2003	07,134,000	01,803,427	026,572	00	08,964,079	01,233,753	053,251,933
2004	07,134,000	01,864,744	027,476	00	09,027,100	01,109,212	054,371,146
2005	07,134,000	01,928,145	028,410	00	09,091,435	0997,426	055,360,573
2006	07,134,000	01,993,702	029,376	-0905,936	08,172,022	0000,497	056,169,071

UNIFORM ANNUAL EQUIVALENT = \$7,427,003 (12.00% DISCOUNT RATE, 21 YEARS)

CUMULATIV NET PRESENT VALUE



LEGEND	DESCRIPTION
1	ARMY FAMILY HOUSING
2	801 ON-POST

II. DETAILED SUMMARY

A. Problem Statement

The United States Army created two new Light Infantry Divisions in 1984. One rapid deployment unit, the 6th Division, is to be stationed at Fort Wainwright to share in the defense of Alaska and of the Northwestern American Continent. The complement of 2,600 soldiers is to be stationed by 1988. Permanent facilities need to be built to accommodate permanent, reserve, dependent, and civilian support personnel. Housing is one required element.

The objective of this study is to recommend the most cost effective means of providing 400 units of family housing for officers and enlisted personnel at Fort Wainwright, Alaska.

Authority to conduct this study was delegated by United States Public Law 98-115 Section 801 dated 11 October 1984 as contained in 97 Statute 782 and 783.

B. Location and Description

Fort Wainwright is located (figure 1) adjacent to the city of Fairbanks in Interior Alaska. Fairbanks is Alaska's second largest city with a population of 27,000 (up from 18,000 in 1970). The Fairbanks North Star Borough (FNSB) covers 7,361 square miles and has a total population of 65,000. Average residency is 12 years and average age is 37.

Located on the Alaska Intermountain Plateau, the FNSB is bounded by the Brooks Range to the north and the Alaska Range to the south. The dominant feature of the FNSB is the Tanana River, a tributary of the Yukon River. Nearly all of Fairbanks lies in the Chena and Tanana River flood plains.

The climate of the FNSB is considered semi-arid because precipitation amounts to only 12 inches a year. About 7.5 inches falls as rain; the rest is sleet and snow. Snow covers the ground from mid-October through mid-April and averages 30 inches in depth. Spring, early summer and fall are relatively dry. Mean monthly wind velocities range from 3 to 7.5 mph. Temperature extremes range from -60°F to 90°F. July averages 70°F and January averages -11°F. Fairbanks experiences about 5,500 degree days below freezing each year. The sun shines nearly 23 hours a day on June 21 due to proximity to the Arctic Circle.

Fort Wainwright is the home of part of the 172d Brigade. Currently it stations 2,825 troops and employs 550 civilians. The troop complement is expected to rise to 5,925. The present size of the installation is 917,000 acres (1,432 square miles).

The selection of Fort Wainwright as the home of the Army's new 6th Light Infantry Division will mean sudden and radical changes in the nature of this installation. Approximately 3,100 military and 300 civilian personnel will be added to Fort Wainwright's existing resident work force.

These personnel will be accompanied by about 3,200 dependents. This expansion will require construction of extensive on-post facilities at an estimated cost of about \$400 million over a 5-year period.

B. Housing Requirement - The 1984 pertinent housing statistics at Fort Wainwright are contained in Appendix B; DD (Housing Survey) form 1378 dated 21 January 1985. These are summarized in table II-1. Provisions of the 801 Leasing Program specify that an agreement may be entered into only when a validated military housing deficit exists.

No significant housing deficit currently exists at Fort Wainwright. However, with a change in mission and assignment of the LID, a bona fide deficit will exist. New housing must be constructed.

Table II-1
Housing Requirements

<u>Item</u>	<u>Officers</u>	<u>Housing</u> <u>Enlisted</u>
Effective Requirement 1985	636	2,520
Programming Limit 1985 (90%)	572	2,268
Effective Requirement 1988	748	2,808
Military Housing	242	1,177
Off-post Housing	189	691
Surplus/(deficit) 1985	(141)	(400)
Deficit 1988	(223)	(688)

C. Assumptions

1. That the Army will have a continuing need for housing at Fort Wainwright for at least 20 years (the term of the lease).

2. That the rent to satisfy the lease will be appropriated for that purpose by Congress on an annual basis.

3. That inflation indices stipulated by the Office of Management and Budget through the Office of the Secretary of Defense (OMB/OSD indices) represent an accurate projection of inflation through the 21-year project life.

4. That the owner/developer of the 801 Housing will retain ownership of the project for the full 32-year outlease period and then completely remove all improvements.

5. That new construction will take 18 months to complete, and have a 40 year life for the AFH option; the 801 BTL a 30-year life because all improvements are to be removed at the end of the out lease period.

6. That installed appliances have a 10-year life and require servicing at the rate of one call per two units per year.

7. That maintenance and repair costs in the Army Family Housing (AFH) alternative will experience both real and inflationary increases based on the age of the units, while the 801 lease alternative will experience only an inflationary increase based on its tie to the index of Economic Indicators.

8. That the construction contract for the Government construction (AFH) alternative would be awarded on 30 September 1985, and would require delivery of all of the units by 1 April 1987.

9. That an agreement to lease in the 801 Build to Lease (BTL) Program would be signed on 30 September 1985 and require all the units to be delivered by 1 April 1987.

10. That the 801 lease alternative will be depreciated over a 30-year straight line for tax purposes.

11. That increases in real estate taxes payable in the 801 BTL alternative by the Government will not be considered as part of the maintenance rent for the purpose of applying the Economic Indicator index at the start of the following year.

12. That the same parcel of Government-owned land on Fort Wainwright would be used for construction of the selected alternative.

13. That a 60 percent outlay of capital is made in FY 86 followed by a 40 percent outlay in FY 87 to compensate for retainage and possible early acceptance of completed units prior to 1 April 1987.

D. General Cost Element Summary

1. Costs considered:

Table II-2 shows costs considered in the analysis.

Table II-2
Summary of Elements of Cost for Housing

<u>Cost Element</u>	<u>AFH Alternative</u>	<u>801 Lease Alternative</u>
A. Construction Cost	X	O
B. Land Cost	W	W
C. Maintenance and Repair	X	X
D. Real Estate Tax	-	X
E. Services	X	-
F. Management	X	O
G. Equipment	X	-
H. Imputed Insurance	X	-
I. Housing Allowance	W	W
J. Residual Value	X	O
K. Rent	-	X
L. Government Income Tax Gain or Loss	-	O
M. Utilities	W	W
N. Federal School Impact Aid	X	O
O. Fire and Police	W	W

X = Cost included

O = Cost calculated, but only used to estimate other costs.

W = "Wash" - equal in both alternatives

- = Cost Not applicable

2. Cost Element Details

Details on the development of costs considered and their reason for inclusion or noninclusion are shown in Appendix A.

E. Methodology

The two alternatives were compared on the basis of net discounted present cost. In order to do this, all costs involved in each alternative were identified. Those considered approximately equivalent under each alternative were eliminated from consideration as "wash" costs. The remaining costs were converted to a total net present cost on the basis of current dollars (inflated at the OMB/OSD rates) and discounted at a rate of 12 percent. Use of this discount rate was directed by OCE and is based on an approximate 4 percent inflation and 8 percent cost of money.

A residual value, which represents the remaining value of the construction to the Government at the end of the analysis period, was then calculated by use of Building Decay - Obsolescence and Site Appreciation Factors contained in OMB Circular A-104. This residual value was then deducted from the costs of the final year of the analysis period yielding a negative cost for that year. The discounting process then arrived at a net present value estimate.

The 801 lease alternative does not provide for any residual value to the Government or the developer. The contract requires the removal of all improvements, and thus no capital improvements were assumed.

These two estimates of net present cost were then compared to ascertain the least costly alternative. In addition, key variables were tested to find the amount of change required to affect the outcome of the analysis. This "sensitivity analysis" indicates the importance of each variable in the outcome of the analysis. If reasonable changes in an estimated cost item would alter the ranking of the alternatives, the analysis is said to be "sensitive" to that variable.

This analysis covers a 21 -year period (1-1/2 year construction and 19-1/2 year lease), as partial rent or construction costs will be charged in the year preceding final delivery of all units. Costs and/or benefits to the Government for the last 10 years of the outlease were considered in the evaluation.

F. Summary of Results

1. Economic Analysis Results

These economic analyses were conducted using the Develop Econpack program on OCE's 1391 Processor System. This program allows the user to specify a discount rate, an inflation index, and values to be used in developing the analysis. The detailed results of this computer analysis are contained in Appendix C. Shown therein are: 1) a detailed MCA construction cost buildup for the project, 2) a chart showing a year-by-year comparison of the net cumulative discounted present cost to that year, 3) year-by-year tables of the costs of each alternative showing the annual cost in each area, the total annual cost, the discounted annual cost, and the cumulative net discounted cost, and 4) a graph showing the comparative cost for each alternative over the 21-year analysis period. Results are as follows:

<u>Alternative</u>	<u>Present Worth Net Cost*</u>	<u>Average Annual Equivalent</u>
AFH On-post Construction	\$64,458,170	\$8,523,954
801 Build to Lease	\$56,169,071	\$7,427,807

*Based on a 21-year period of analysis (1986-2006) and a 12 percent discount rate.

The analysis of costs indicates the use of the 801 Build to Lease program to be the more economically feasible means of meeting an urgent need for Army military personnel family quarters in Fort Wainwright.

2. Sensitivity Analysis Results

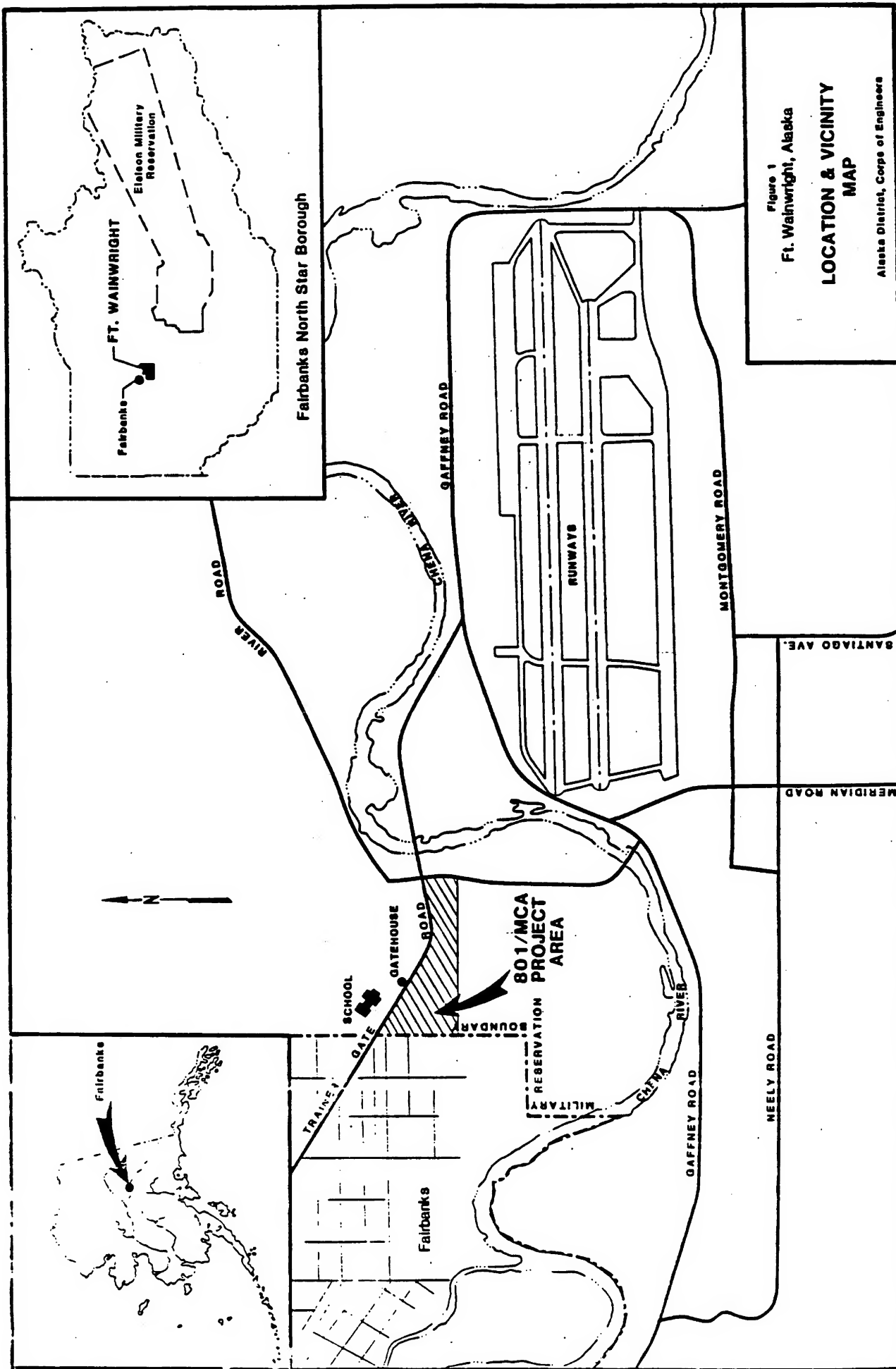
The purpose of a sensitivity analysis is to test key variables in the analysis for the effect that a change in the variable would have on the final results of the whole analysis. Those variables in which a small change results in a reversal of alternative rankings are determined to be "sensitive." The more sensitive the variable, the more important it is that the information on which that cost is based be accurate and reliable. A sensitive variable which is based on assumptions and conjecture greatly weakens the overall reliability of the analysis.

In the case of this analysis, 8 variables were tested for sensitivity. Those variables requiring a change of more than 100 percent plus or minus were considered insensitive. The results of this sensitivity analysis are presented in Table II-3.

Table II-3
Changes in Cost Elements to Rank
AFH Construction as Least Costly

<u>Cost Element</u>	<u>400 Units</u>
1) Construction Cost	-14.06%
2) Maintenance Cost	+94.53%
3) Services	insensitive
4) Equipment Cost	insensitive
5) Insurance Cost	insensitive
6) Residual Value	insensitive
8) Real Estate Tax Increase	insensitive
9) Government Tax Revenue	insensitive

This analysis is considered to demonstrate a relatively low overall sensitivity for the economic analyses conducted. The two items demonstrating the sensitivity (construction costs and BTL Maintenance Rent) are based on a large body of factual data, bids, and experience. Other elements (e.g., real estate taxes and Government tax revenue) which required considerable assumption and interpretation are shown to be insensitive.



SECTION 801 BUILD-TO-LEASE HOUSING PROGRAM
NAVAL WEAPON STATION EARLE (NWS) EARLE NEW JERSEY

AN ECONOMIC ANALYSIS OF ALTERNATIVES
FOR PROVIDING FAMILY HOUSING

Prepared by
Operations Research and Consultation Group
Code 20Z
200 Stoval Street
Alexandria, Virginia 22332-2300

July 1988

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B. Alternative Courses of Action	1
C. Methodology and Assumptions	1
D. Derivation of Cost Elements	2
E. Economic Analysis Results	3
Appendices	
A. FY-89 Detailed Cost Build Up	A-1
B. Economic Analysis Spreadsheet	B-1

EXECUTIVE SUMMARY

In August 1985, the Navy issued a Request for Proposals (RFP) for the build-to-lease of 300 Family Housing Units on government-owned land at the Naval Weapons Station (NWS) Earle, Colts Neck, NJ. Nine proposals were received, but only two of the nine were responsive. After further evaluation, the proposal from Dick Fischer Development Co. #3 was ranked the highest and the offer was accepted in August 1986. The lease ceiling at that time was \$755 per unit, per month.

Since award, there have been delays which have prevented the start of construction. Since cost levels have risen substantially since August 1986, Dick Fischer Development Co. #3 can not deliver the 300 units at the originally negotiated price. The Navy has negotiated a new offer with Dick Fischer Development Co. #3 \$885 per unit, per month.

This new offer has been evaluated in an economic analysis which compares two alternatives: (1) terminate the contract and solicit new proposals (2) accept the new offer from Dick Fischer Development Co. #3. The economic analysis shows that alternative (2) has a lower Net Present Value (\$31,315,711) than alternative (1) (\$32,047,301). Accordingly, alternative (2), accept the new offer from Dick Fischer Development Co. #3, is recommended as the appropriate course of action.

A. OVERVIEW AND BACKGROUND

Section 801 of the Military Construction Authorization Act of 1984 authorized a leasing program to obtain additional housing facilities. The Naval Weapons Station, Earle New Jersey, was one of the locations selected to test this program. The RFP of August, 1985 for the build-to-lease of 300 Family Housing units, resulted in (9) proposals only (2) of which were responsive. After going through the formal evaluation process from the two proposers, the Dick Fischer Development Co. was selected as the most economically advantageous alternative when compared with the Military Construction alternative. This was supported by Northern Division Naval Facilities Engineering Command's approved economic analysis of May, 1986. This study updates the old analysis and recommends the most economical course of action based on current costs and the current OSD approved methodology for life cycle cost analysis.

B. ALTERNATIVE COURSES OF ACTION

This economic analysis provides a revised comparison of the two potential housing alternatives which are explained below:

1. Military Construction (MILCON). Construction using funds appropriated for military construction of 300 new enlisted family housing units. This alternative assumes funds would be appropriated as part of the FY-89 Military Construction Program and the existing 801 contract would be terminated.

2. 801 Build-to-Lease Program. The Navy would modify and continue the present long term agreement to lease 300 rental housing units to be constructed by a private developer with delivery in FY-89. The units will be located at NWS Earle, New Jersey on land presently owned by the Navy.

C. METHODOLOGY AND ASSUMPTIONS

This analysis presents the results of revising the previously approved economic analysis (same subject) of May 1986, prepared by the Northern Division Naval Facilities Engineering Command as submitted to the appropriate congressional subcommittees in August, 1986. In this report, all previous cost factors were reviewed and corrected as appropriate to meet the current methodology acceptable to the Office of the Secretary of Defense (OSD) and the Office of the Management and Budget (OMB). Results of the life cycle cost analysis of the military construction alternative was utilized to establish a lease ceiling boundary condition as a threshold which the contractors bid must not exceed for the lease alternative to be selected. This lease ceiling or "cap" approach insures that the lease can only be selected when the alternative has a lesser Net Present Value (NPV) than the MILCON alternative.

REPRODUCED BY THE NATIONAL ARCHIVES

The analysis includes the following assumptions:

1. The Navy's presently owned land would be used with either alternative

2. A current dollar analysis was performed and present value calculations utilizing a discount rate of 9.35 percent (per OMB and OSD guidelines).

3. All costs are estimated in FY-1989 current dollars. Future cost increases due to inflation are included in the analysis similar to the FY-86 previously approved report, utilizing NAVCOMPT NOTE 7111 Of 20 April 1988.

4. The length of the analysis period is 21 years, FY-89 through FY-2009.

D. DERIVATIONS OF COST ELEMENTS

All cost elements from the previously approved analysis were revised and escalated as appropriate to reflect FY-89 base year dollars. Figure 1 shows the cost elements and their revised estimates. Detailed derivations of these costs are in Appendix A, FY-89 Detailed Cost Build Up.

FIGURE 1
COST ELEMENT VARIANCES FY-86 ANALYSIS vs CURRENT ANALYSIS

CATEGORY	FY-86	CURRENT	VARIANCE
Number of units	300	300	0
Starting Date	1987	1989	2 years
Discount Rate	9.60%	9.35%	.25%
VHA/BAQ	\$530	\$545	\$15

MILCON DATA	FY-86	CURRENT	VARIANCE
Land Cost	0	0	0
Construction Cost	\$22,187,000	\$23,541,347	\$1,354,347
Termination Cost	0	\$3,175,000	\$3,175,000
% Spent First Year	100%	100%	0
Annual Operating Cost/Unit	\$235	\$490	\$255
Annual Maintenance Cost/Unit	\$1410	\$1508	\$98
Annual Insurance Cost/Unit	\$35	\$83	\$48
Maintenance Real increase Rate	.08%	.08%	0
Real Estate Tax Rate	1.00%	1.00%	0
Building Deterioration Rate	1.7%	1.7%	0
Land Appreciation Rate	1.5%	1.5%	0

E. ECONOMIC ANALYSIS RESULTS

The results of the revised calculations are shown at Appendix B. The economic analysis shows that alternative (2) has a lower Net Present Value (\$31,315,711) than alternative (1) (\$32,047,301). Accordingly, alternative (2); accept the new offer from Dick Fischer Development Co. #3, is recommended as the appropriate course of action.

REPRODUCED BY THE NATIONAL ARCHIVES

**APPENDIX A
FY-89 DETAILED COST BUILD UP**

I. Introduction: This section describes the procedure that were followed in the derivation of cost items for this economic analysis.

II. Cost Element Items: The major cost elements for each of the alternatives, reflect FY89 cost levels and spans the 21 year period for the analysis (1989-2009).

III. Cost Element Details

A. Discount Rate: MCON & 801

Per OMB circular A-104, the discount rate is equal to the interest rate on new issues of U.S. Treasury securities with maturities equal to the term of the proposed lease, plus 1/8 th of a percentage point (which represents the charges for agency borrowing financed through the Federal Financing Bank. At the time of this analysis, the rate was 9.225 plus .125 which equaled 9.35%.

B. Inflation Rate: MCON & 801

The analysis is performed using inflation rates as prescribed by OMB. The rates used in the analysis are from the NAVCOMPNOTE 7111 of April, 1989. A listing of the rates are provided below.

Fiscal Year	Inflation Rate
1989-1990	3.5
1991-1992	3.1
1993-1994	2.6
1995-1996	2.4
1997-2009	2.3

C. Military Construction Navy: MCON

New construction costs were based on estimates using the Tri-Service Cost model. The MCON cost development is presented in Figure A-1. Unit construction of \$48/SF is based on OSD direction.

SV 1999 TFI-SERVICE FAMILY HOUSING MODEL

SERVICE:

FAMV

LOCATION:

HMS EARLE NS

BASELINE:

300	1048	\$48.00	\$15,091,200
(NO. OF UNITS)	(ANSF)	(\$/NSF)	5' LINE COST

PROJECT FACTORS:

1.12	0.98	1.00	1.1
(NSF)	(PROJECT SIZE)	(UNIT SIZE)	PROJECT FACTOR

HOUSING COST:

\$15,091,200	1.1	\$16,600,320
(5' LINE)	(PROJECT FACTOR)	ADJUSTED 5' LINE COST

\$2,500	1.12	300	\$840,000
(SOLAR UNIT COST)	(ACF)	(UNITS)	TOTAL PROJECT SOLAR COST

\$16,600,320	\$840,000	\$17,440,320
(ADJUSTED 5' LINE COST)	+ (SOLAR)	HOUSING COST

SUPPORTING COST:

ROADS AND PAVING
SITE PREPARATION
UTILITIES
RECREATION
LANDSCAPING
SPECIAL CONSTRUCTION

(30% OF ADJ 5' LINE COST)

SUMMARY:

\$17,440,320	\$8,520,076	\$22,420,416
(HOUSING COST)	(SUPPORTING COST)	

\$22,420,416	1.05	1	\$27,541,437
(SUBTOTAL)	(CONTINGENCY)	(SIGN)	

PROJECT SIZE NE UNITS

1-49 = 1.08	200-499 = .98
50-99 = 1.02	500+ = .98
100-199 = 1.00	

UNIT SIZE NET SF

950-1050 = 1.0
1051-1150 = .99
1151-1250 = .98

1251-1350 = .97
1351+ = .96

D. Allowances: MCON & 801:

A monthly housing allowance for an accompanied E-5 are used to identify the costs associated with the MCON alternative during construction. The housing allowance is comprised of a VHA and BAQ segment that when added equals \$545.00 per month.

E. Maintenance and Repair: MCON

Maintenance costs are based on the analysis from 1986 of \$1410.00 per year per unit. The \$1410 costs are then escalated using O&M escalation rates for an annual cost of \$1508 per unit per year.

F. Equipment: MCON:

Under this alternative, new refrigerators, ranges and ovens would be installed in the new housing units. The periodic replacement and repair cost schedule is programmed under the MCON alternative. The costs for the equipment are based on the 1986 analysis and escalated to 1989 dollars.

G. Imputed Insurance: MCON

Per OMB A-104 revised, Imputed Insurance (and imputed land and real estate taxes) are costs that are incurred by the lessor and included in the analysis because they are subsequently charged to the Federal Government as part of the rental rate.

Insurance costs related to the construction alternative reflect only those fees necessary to cover liability claims. (Property damage due to other types of casualties is excluded since the cost of repairs and/or replacement is handled under required maintenance and repair and thus is reflected in the annual M&R budget accounts.) Costs included in this element represent localized commercial liability rates. The rate of \$83 per year per unit is based on a workup developed from an analysis for recent 801 Housing at Staten Island New York, approved by OSD and the congress. This study, performed by the Logistics Management Institute, utilized data from the Institute for Real Estate Management for the Staten Island area which is less than an hour from Earle New Jersey and comparable in insurance cost. Insurance cost is applied to all of the units, time phased in accordance in accordance with the delivery of units specified under the construction cost element.

H. Land Acquisition: MCON

Housing facilities constructed under the Family Housing Construction Program are normally sited on Government-owned land. Facilities provided under the 801 Program will also be constructed on Government land. As such, no actual cash outlays will occur to obtain the needed land.

I. Operations

The operations costs are based on the 1986 analysis methodology calling for an increase of two additional civil service employees for the housing staff and entomological and street cleaning services for the additional housing area. Personnel costs reflect Navy Industrial Fund (NIF) rates charged at Earle. Use of this rate results in a personnel cost of \$109048. Costs for entomological and street cleaning services were updated based on actual unit costs for FY 87 to a total of \$37835. The result of this analysis yields an annual cost per unit per year of \$490.

J. Residual Value: MCON

To facilitate equal comparison of the housing alternatives, an implied residual value was applied to the construction alternative. The residual value of a structure is its net disposal value at the end of the project life, and is generally thought to decline over time, reflecting its use, consumption, and/or physical deterioration.

Under the MCON option, residual value of the project equals the sum of the residual value of the structures and land and is considered a reduction in the cost of this alternative to the Government. This estimated residual value was computed using a 1.7% degradation rate amortized on a straight line basis for the term of the lease. The procedure used to derive this value is shown below.

(Estimated Construction X (Compound Inflation Factor) X (OMB Building Decay Factor) = Residual Value of Structures Costs)

(Estimated Land Value) X (Compounded Inflation Factor) X (OMB Land Appreciation Factor) = Residual Land Value

K. Termination Costs

\$900,000 Payments to Tinton Falls Schools District for educational support to Navy school children necessitated by late delivery of Section 801 family housing. Authorized by H.R. 4264.

\$275,000 Resolicitation costs to be incurred by the Navy in the event of termination of the current contract. Essentially the entire procurement process would have to be repeated from updating of the solicitation documents through detailed evaluation of proposals received. Items include administrative and professional labor in the real estate, housing, planning, engineering, and environmental areas. Hard copy costs such as printing of solicitation documents, advertisement in periodicals, and mailing to interested proposers are included. Estimate is based upon experience to date with Navy Section 801 solicitations including the recent offering for Staten Island.

\$2,000,000 Potential damages for the current proposer. In his proposal submitted in April 1988, the developer listed the following pre-construction costs:

Planning	\$495,000
Architect/Engineer	375,000
Owners Representation	380,000
Attorney's fees	250,000
Trustee's fees	100,000
Title insurance/recording	20,000
Appraisal	5,000

In the event of termination, it is anticipated the developer would claim at least all of the above costs together with costs subsequent to April 1988, and additional costs associated with the actual termination including legal fees for settlement. Therefore, the claim against the Navy would be in the range of \$2,000,000 or more.

M. Lease Payments: 801

This program, which was authorized under the Military Construction Authorization Act of 1984, was designed to test whether family housing could be provided more economically than by conventional means. The proposed units would be constructed to meet the space requirements for accompanied enlisted personnel. Under this plan, 300 dwelling units would be constructed, operated, and maintained by a private contractor. The units would be built on property provided by the Government with the leasing agreement between the Government and the contractor not to exceed 20 years. Under this program, the individual service person would forfeit his/her BAQ and VHA and be assigned to the housing unit. Annual lease costs reflect the negotiated amount of \$900/unit/year.

N. Utilities: MCON and 801

Utility expenses for both alternatives will be equal and are considered wash costs.

O. Impact Aid: MCON and 801

As either alternative would be located on the same site, impact aid expenses will be equal and are considered wash costs.

PRESS ALT-F FOR MENU
PRESS ALT-F FOR RESULTS

USE THE ARROW KEYS TO MOVE BETWEEN ENTRIES. PRESS (ENTER) WHEN DONE.

LAND COST ESTIMATE
FOR WILLOW PROPOSAL

801 Housing
LOCATION =
NO OF UNITS (MULTIPLE SITES) = 300
STARTING F.Y. (1977) = 1989
DISCOUNT RATE = 9.332
DISCOUNT PRICE (INDEX) = N/A
IF YES (1), PRESS ALT-F TO ENTER INDICES
OTHERWISE, ENTER INFLATION RATE =
PRESS ALT-F TO ENTER DELIVERY SCHEDULE
PROPERTY INCREASE ALLOWANCE PER UNIT = \$500

MILCOM DATA
LAND COST (MULTIPLE SITES) = \$2,541,347
CONSTRUCTION COST =
MULTIPLE FOR MULTIPLE SITES)
1 OF COST SPEC 1ST YEAR = 100.02
ANNUAL OPERATIONAL COST PER UNIT = \$420
ANNUAL INSURANCE COST PER UNIT = \$83
ANNUAL MAINTENANCE COST PER UNIT = \$1,506
MAINTENANCE PER INCREASE RATE = 0.83
PRESS ALT-F TO ENTER EQUIPMENT COST & LIFE
REAL ESTATE TAX RATE = 0.002
R. E. TAX INCREASE RATE = 1.02
ENTER 0, IF LEASED (USING RENT) BE BUILT
ON GOVT OWNED LAND
BUILDING DEPRECIATION RATE = 1.72
LAND APPRECIATION RATE = 1.52

LEASE DATA
SHELTER PERCENT = \$2,788,093
MAINTENANCE RENT = \$400,000
RENT ON GOVT OWN LAND (Y=1/M=0) = 0
IF YES (1), ENTER 0 FOR LAND COST
PROPOSED LAND COST = \$0
PROPOSED BUILDINGS COST = \$23,541,347
REAL ESTATE TAX RATE = 0.0002
R. E. TAX INCREASE RATE = 1.02

F.Y. ESCALATION
YEARS YEAR INDICES (1) FACTORS

0	1989	BASE	1.000
1	1990	3.52	1.035
2	1991	3.12	1.067
3	1992	2.62	1.095
4	1993	2.32	1.129
5	1994	2.32	1.146
6	1995	2.32	1.172
7	1996	2.32	1.199
8	1997	2.32	1.227
9	1998	2.32	1.255
10	1999	2.32	1.284
11	2000	2.32	1.313
12	2001	2.32	1.343
13	2002	2.32	1.374
14	2003	2.32	1.406
15	2004	2.32	1.438
16	2005	2.32	1.471
17	2006	2.32	1.505
18	2007	2.32	1.540
19	2008	2.32	1.575
20	2009	2.32	1.612
21	2010	2.32	1.649

DELIVERY SCHEDULE

1 COMPLETED PER SECTESTER WILCON LEASE

YEAR 0:	1ST. HALF	01	02
	2ND. HALF	501	501
YEAR 1:	1ST. HALF	501	502
	2ND. HALF	01	02
YEAR 2:	1ST. HALF	01	02
	2ND. HALF	02	02

TOTAL 1002 1902.

USE THE ARROW KEYS TO MOVE BETWEEN ENTRIES. PRESS (ENTER) WHEN DONE

GENERAL DATA SITE #1 SITE #2

LOCATION
NO OF UNITS

LAND COST DATA SITE #1 SITE #2

DENSITY 15 15
COST PER ACRE

ESTIMATED LAND COST \$0 \$0

EQUIPMENT COST & LIFE

USE THE ARROW KEYS TO MOVE BETWEEN ENTRIES. PRESS (ENTER) WHEN DONE

EQUIPMENT TYPE OF UNIT IN FY 1989 (3..19 YEARS) TOTAL EQUIPMENT COST

EQUIPMENT	TYPE OF	COST PER UNIT IN FY	ESTIMATED LIFE	TOTAL EQUIPMENT COST
REFRIGERATOR		643	10	192900
RANGE		541	12	162300
DISHWASHER		488	7	146400
DISHWASHER DISPOSAL		166	5	49800
SMOKE DETECTOR		20	3	6000
OTHERS		0	0	0

TOTAL 1858 557400

F.T. YEAR		INFLATION	CONSTRUCTION	TERMINATION	MAINT & REPAIR	EQUIPMENT	ALLOWANCES	INSURANCE	OPERATIONS	RESID VALUE	PROPERTY TAX	TOTAL	ANNUAL	DISCOUNT	NET	PRESENT	CUMULATIVE
YEAR		FACTOR AT	MCA	MCA	MCA	MCA	MCA	MCA	MCA	MCA	MCA	MCA	FACTOR AT	FACTOR AT	VALUE	VALUE	NPV
0	1989	1.000	23541347	3175000	0	331176	1962000	0	0	0	0	28678347	972200	1.000	28678347	972200	28678347
1	1990	1.035	0	0	0	0	307667	19329	114109	0	0	972200	972200	0.914	972200	972200	29383702
2	1991	1.067	0	0	0	0	0	26570	156861	0	0	670445	670445	0.836	560258	560258	30146140
3	1992	1.095	0	0	0	0	0	27261	160940	0	0	681458	681458	0.765	528822	528822	30674962
4	1993	1.120	0	0	0	0	0	27888	164442	0	0	718201	718201	0.699	502309	502309	31177271
5	1994	1.146	0	0	0	0	0	28530	168428	0	0	752092	752092	0.640	448245	448245	31645514
6	1995	1.172	0	0	0	0	0	29186	172302	0	0	811601	811601	0.585	471758	471758	32120272
7	1996	1.199	0	0	0	0	0	29837	176265	0	0	87246	87246	0.535	418473	418473	32538745
8	1997	1.227	0	0	0	0	0	30544	180319	0	0	977220	977220	0.489	478016	478016	33016761
9	1998	1.255	0	0	0	0	0	31246	184467	0	0	820785	820785	0.447	367164	367164	33383925
10	1999	1.284	0	0	0	0	0	31965	188709	0	0	852317	852317	0.409	296669	296669	33732594
11	2000	1.313	0	0	0	0	0	32700	193950	0	0	1187876	1187876	0.374	444300	444300	34176984
12	2001	1.343	0	0	0	0	0	33452	197490	0	0	894403	894403	0.342	305940	305940	34482975
13	2002	1.374	0	0	0	0	0	34222	202932	0	0	1151710	1151710	0.313	369329	369329	34843306
14	2003	1.406	0	0	0	0	0	35009	206679	0	0	947173	947173	0.286	278998	278998	35114302
15	2004	1.438	0	0	0	0	0	35814	211432	0	0	1185301	1185301	0.262	310132	310132	35424434
16	2005	1.471	0	0	0	0	0	36638	216293	0	0	1083208	1083208	0.239	259664	259664	35684098
17	2006	1.505	0	0	0	0	0	37489	221270	0	0	1032315	1032315	0.219	225888	225888	35909986
18	2007	1.540	0	0	0	0	0	38342	226359	0	0	1062397	1062397	0.200	212591	212591	36122577
19	2008	1.575	0	0	0	0	0	39224	231565	0	0	1102804	1102804	0.185	201809	201809	36334386
20	2009	1.612	0	0	0	0	0	40127	236872	0	0	19416714	19416714	0.167	3249376	3249376	36759010
21	2010	1.649	0	0	0	0	0	10262	60585	0	0	675290	675290	0.153	1027709	1027709	37047301

REPRODUCED AT GOVERNMENT EXPENSE

1.- SECTION 801 LEASE HOLDING ALTERNATIVE

F.Y. : YEARS	INFLATION FACTOR AT	801 LEASE (102)	MAINT & REPAIR 801 (106)	INSURANCE 801 (108)	R. E. TAXES 801 (110)	ALLOWANCES		TOTAL PAYMENT	DISCOUNT FACTOR AT 9.35%	NET PRESENT VALUE	CUMULATIVE NPV
						801 (111)	801 (112)				
0	1989	1.000	0	0	0	1962000	1962000	1962000	1.000	1962000	1962000
1	1990	1.035	2089500	310500	0	507667	507667	2907668	0.914	2659307	4621047
2	1991	1.067	2786000	426834	0	0	0	3212834	0.836	2656895	7307942
3	1992	1.095	2786000	437932	0	0	0	3223932	0.755	2465539	9773591
4	1993	1.120	2786000	448004	0	0	0	3234004	0.699	2261858	12035439
5	1994	1.146	2786000	458109	0	0	0	3244308	0.640	2035048	14116487
6	1995	1.172	2786000	468849	0	0	0	3254849	0.595	1903786	16012273
7	1996	1.199	2786000	479633	0	0	0	3265633	0.555	1746770	17761044
8	1997	1.227	2786000	490564	0	0	0	3276664	0.515	1616506	19677590
9	1998	1.255	2786000	501950	0	0	0	3287950	0.477	1470808	21143399
10	1999	1.284	2786000	513495	0	0	0	3299495	0.440	1349769	22498167
11	2000	1.313	2786000	525395	0	0	0	3311305	0.404	1238775	23736943
12	2001	1.343	2786000	537687	0	0	0	3323387	0.374	1136987	24873929
13	2002	1.374	2786000	549747	0	0	0	3335747	0.342	1043535	25917555
14	2003	1.405	2786000	562391	0	0	0	3348391	0.313	958017	26975582
15	2004	1.439	2786000	575326	0	0	0	3361326	0.286	879486	27755887
16	2005	1.471	2786000	588558	0	0	0	3374558	0.262	807451	28562519
17	2006	1.505	2786000	602095	0	0	0	3388095	0.239	741172	29343891
18	2007	1.540	2786000	615943	0	0	0	3401943	0.219	686752	29984443
19	2008	1.575	2786000	630110	0	0	0	3416110	0.200	625137	30609779
20	2009	1.612	2786000	644633	0	0	0	3430603	0.183	574109	31183899
21	2010	1.649	696500	164857	0	0	0	861357	0.167	131822	31315711
									0.153		
											31315711

3175000

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```
*****
#                               #
#           RESULTS           #
#                               #
# MILCOM NPV =  $32,047,301  #
#                               #
# LEASE NPV =   $31,315,711  #
#                               #
# MAX SHELTER RENT = $3,361,925 #
#                               #
# MAX MAINT RENT = $2,728,332  #
#                               #
# RENT/MD/UNIT =      $934    #
#                               #
#*****
```

202 325 2839

PAGE.16

SHELTER RENT + 1.232 (MAINTENANCE RENT) <=